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POLITICAL AND SOCIAL.

BY

F. W. NEWMAN,

EMERITUS PROFESSOR OF UNIVERSITY COLLEGE, LONDON;
HONORARY FELLOW OF WORCESTER COLLEGE, OXFORD;
ONCE FELLOW OF BALLIOL COLLEGE, OXFORD.
AND M.R.A.S.

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EXAMPLE OF AMERICAN ADMINISTRATION.*

From "Westminster Review," April 1855.

AT the close of the last century, when the calamitous break-up of all hopes in the French Republic was fresh, the eye of patriots turned to England as the type of the sole practicable public liberty. Sir James Mackintosh, mortified and heart-sick at France, believed it was reserved for England to teach all nations how to regulate their political institutions. When the star of Napoleon began visibly to set, the English Constitution seemed to beam over Europe as a beneficent sun, promising a millennium of tranquil prosperity. In France was presently substituted, in place of despotism, a temperate Royal Constitution. A still freer schedule was drawn up for Poland by the very hand (it was believed) of the amiable despot Alexander I. Spain and Sicily had each a liberally imagined and legitimately enacted system, solemnly recognised by Great Britain; that of Sicily, indeed, having been both aided and guaranteed by us, enacted by the Estates, and deliberately accepted by the King;—thus founded on unbroken law as ancient as our own Parliament. The German princes had promised to their people the full restitution of old rights under new forms, assimilated to those of England,—a promise by which they animated them to the struggle against France. Hungary retained her ancient aristocratic legislature, as well as her county freedom; and the Austrian Court, while invading Venetia and Lombardy under the false pretence of re-occupying its own ancient dominions, professed to respect their nationality, and put forth a formula of their constitutional rights. Thus at the close of 1814 Europe was in expectation of at last tasting freedom and happiness under royalty.

At the other side of the Atlantic men were more discerning. Jefferson understood, and concisely laid down, the conditions under which alone Royal Constitutionalism in the English sense

[* "Constitution of the United States of North America compared with our own," by Hugh Seymour Tremenheere. London: John Murray, 1854.]

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can be permanent. Where the Executive, he argued, has but a small army under its control, there the Constitution may stand, as in insular England. But a great Continental Executive, like royal Russia, with vast frontiers to defend and vast armies necessary against the foreigner, will always be able to crush domestic liberty. Events developed the truth of this, and of more than this. The petty princes were supported against their subjects by the more powerful ones. "The Holy Alliance," indeed, enunciated the principle, and opened the eyes of Europe. In fact, the King of Naples disowned the Constitution of Sicily by secret engagement with Austria, while Austria counted on Russian support, not only in this matter, but also in her scheme to rule in Hungary without Parliaments. The King of Spain disowned the Constitution as soon as he had been received back by his nation. When at length the people constrained him to respect it, the French armies swarmed in to enforce his despotism by order of the Holy Alliance at Verona; this overwhelming combination kept England and Mr Canning quiet. The Constitutions of Germany and of Lombardo-Venetia were fraudulently withheld; that of Poland was in three years' time destroyed. Stern facts showed that in France alone could even the shadow of a constitution stand, and there only under a cautious old king, partly because foreigners did not dare again to meddle with the formidable French people. Even there the next king, Charles X., made a bold stroke for despotism and lost his throne by it in 1830. Political reasoners in all the suffering countries were driven to reflect that the failure of royal constitutionalism was no new thing, but was coeval with standing armies. Englishmen had talked conceitedly, as if their system were a merit of their own, and a panacea alike for tyranny and for disorder; whereas Spain and Germany and Bohemia and the Low Countries and Hungary and Sicily had had vigorous restraints on kingly rule while England had little weight in Europe: if they could not *then* keep their laws against the royal armies, why expect to fare better *now?* Such was the train of reflection which made it inevitable, that in the future efforts for liberty on the Continent republican aspirations should predominate. It was a fallacy to preach to them liberty in the English form. Rather, it was a mockery, similar to that of recommending a navy to a people that has no sea-coast. An English king cannot crush insurrection by his navy; a large army is not a plausible need for our defence against foreigners. The English Constitution may be an excellent

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thing to those who can keep it, but the nations of the Continent have found by the experience of four centuries that to them it is impossible while kings hold the armies.

Henceforward it is no longer England, but the North American Republic, that has become the pole star to which from all sides the eye of struggling nations turns. One great curse, indeed, pollutes the American republic—slavery; which not only dooms three million persons of coloured race to degradation, injury, and ignorance, but keeps the white free men of those States poor, uneducated, proud, and idle; implicates them in the interests of tyranny, and at the same time deteriorates the moral tone of the central legislature and supreme executive. But this bane of America is in no respect derived from or essential to—it is, on the contrary, inconsistent with and destructive of—republican liberty. Hence, dreadful as is the mischief to America herself, it forms no reason why foreigners should the less imitate her cardinal principle. Carp as we may at weaknesses and vices of American democracy, certain great facts in it are open to the day. In the Free States the boy who is born of the poorest and lowest parents may rise into the highest posts. This is no freak of solitary accident, but is a natural result of the institutions. Without special patronage the indigent boy receives good primary education, and, if diligent and clever, invariably rises above want; is received into the best society the moment he deserves it morally and intellectually, and finds no "cold shade of aristocracy" to starve and cripple him. The township is the earliest school of political action; after this, the State legislature or its Governor's office; next the Lower House of Congress, afterwards the Senate; nor is there any insuperable bar to a post in the Supreme Government. Where every industrious man is above the anxieties of want, where every intelligent man may become educated and refined, and every man of high powers may rise into high office; in such a community there will be prosperity and content, even if the form of government be Chinese: but where to the above is added the fullest democratic liberty, there personal self-reliance and a freeman's pride are a crown on content and prosperity. England is little aware how very far she is behind the American Union in solving the greatest problems of the day. Our Constitution took its present form during the struggle against the power of the Crown: it succeeded in its effort to save the public liberties from their official guardian, but it riveted the power of the aristocracy, entailing new evils and a new

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struggle, which since the accession of George III. has been going on continuously. Our present problem is, The Condition of the People. *Free Trade* has been our first onward step, and it has cost us thirty-seven years (from 1815 to 1852) to win and secure this alone. *Colonization* also ought to have been solved long ago; for the high prosperity of the American colonies resulting out of their freedom showed clearly the right principle. This problem America has entirely solved. Her emigrants subdue the wilderness, establish their own municipal institutions, coalesce into a "TERRITORY," receive Prefects from the central Executive, until their numbers reach the height at which they can claim to be incorporated as a STATE of the Union under conditions notorious and universal. English whigs throw dust into our eyes, by ascribing the superior well-being, which they cannot deny, to the abundance of unoccupied land. Well! In Canada and in Australia there is as little lack of land as in the United States; but our aristocratic cabinets at first jobbed it away in vast grants to favourites or to the Church, so as to keep it wild and obstructive, and now either let it in wide tracts and refuse to sell, or so sell it that it is no resource to our poor. In this whole matter it is by fairness, by publicity, by broad unchanging and judicious principle, that the American Union has produced so great results. Canada, indeed, has begun to thrive, just in proportion as she has been freed from British control. The cardinal point is, that the American system promotes *freehold cultivators*, while our Colonial office struggles to keep up *rich landlords* and indigent peasants—shepherds perhaps—working for wages on the field of another. That is the secret of the whole. Our rulers *do not wish* the lower classes to be independent.

Thirdly, the *Moral Movements* in the United States are carried on with an energy to which we in England have no parallel. The very fanaticism into which their abolitionists of slavery run, testifies to the earnestness of their struggle. The war against intoxicating drinks shows their thoroughgoing determination to *strike at the root* of moral mischiefs, and lop off relentlessly even darling vices. The efforts of the Free States for National Education (about which we talk much and do little) are unparalleled in all the world, and hold out a cheering hope of the American future, in spite of the dark shadow which slavery casts. The courage with which all ridicule is despised in the effort to open employment to females and qualify females for employments, deserves all honour. It will sustain the morality of the sex, and

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(except so far as foreign immigration interferes) will prevent that curse of "Christian" Europe—pariah castes in the great cities. Even now the jails of the Free States have hardly any native-born Americans as their inmates. Orphanhood of course must exist; but orphans are adopted into families with a freedom rivalled (we believe) in Turkey only. These are specimens of moral energy in a community, which augur for it a splendid future.

But at present we intend to dwell peculiarly on that side of the American institutions which is connected with executive *Administration*; as to which their superiority to us ought to abate the pride of our aristocracy and the confidence of Mr Hugh Seymour Tremenheere. Our executive has recently exhibited an amount of imbecility and folly, alike in its policy and in its management, for which it is hard to find a parallel in the pages of history. [Allusion was made to the starvation of the English army from want of food and from cold, while supplies abounded six miles off at Balaclava in the Crimea.] Even the horrid massacre endured by our army in Cabul was not numerically so fatal as the loss recently entailed by the combined stupidities of the whole administration, civil and military. There are Englishmen who fancy that under mere democracy energetic diplomacy and warlike success are impossible. An illustrious person recently avowed that at Balaclava English Constitutionalism was on its trial: an ambiguous sentence, which perhaps meant, that *without* any Parliamentary check military successes would be easier. However, let us for a moment attend to the facts concerning the United States of America.

In their original revolt success was due, not to their own strength, but to the incapacity of our commanders. Had Sir Henry Clinton been in supreme command earlier in the war, the result might have been otherwise. His principles were those which gave us the victory in China: he deprecated all expeditions into the interior, and urged to strike only at cities accessible to us by sea. Assuredly the colonists performed wonders of valour and perseverance; and, although ultimately triumphant only by the unsparing aid of France in men and arms, and ships and money, yet they nobly earned their independence. In 1812 they assumed the aggressive against England, because we established a blockade on Europe against their ships, and out of them took sailors by force, claiming them, *by their aspect*, as Englishmen. In that war they were still greatly unequal to us;

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yet in separate combats they had decided advantage by the superiority of their gunnery,—a striking proof that a free system produces higher skill than one of routine: for England at that time had been nineteen years at war with France, had three times destroyed the French fleet, besides the Danish and the Spanish; had highly-trained crews and distinguished officers; while the Americans were wholly raw, having had a peace of twenty-seven years, with a military and naval system economic to penuriousness. Finally, though they were beaten off the seas, their commerce annihilated, their Capitol taken and burnt, their country invaded on two coasts, yet by their raw militia and a single schooner, they inflicted on us so severe a loss at New Orleans, as to leave behind it a belief that the peace which followed our victory over Napoleon was from their triumph over our arms. When the French Government of Louis Philippe had for some time delayed to make payments to the United States which were conceded to be due, the President at last made a plain declaration of war against France, if the money were not paid by a certain near day. The French Government bowed to the insult, and paid the money. We do not at all admire the American behaviour in this instance; but it certainly shows the energy of their administration. Since then have been the war of Texas and the Mexican war,—both unjust in our judgment; the former, a war even in form piratical, the latter not much better in substance. Yet in neither was any military error committed, great as were the difficulties, and in the Mexican war we know not what particular is most to be admired, whether the facility with which an army of volunteers submitted to discipline, the perfection of their weapons—new inventions of America, handled with a skill previously unknown; the goodness of their commissariat, in a wild and vast country, or the flexibility of their mechanical adaptations as to reporting, printing, and communicating homeward. For fifty years past the merchant ships of the United States have notoriously been far better built than those of Great Britain; and as in 1812 our gunners were inferior to theirs, so at the crisis of the Mexican war their practice in small arms was greatly superior to anything which the trained British regular troops had at that time attained.

Out of what institutions then did these military results flow? Briefly we may say, that with them, as with our ancestors, the militia is a free National Guard developed in every locality, not, as in these days of centralization, a subsidiary force in the hands

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of the Crown. The jealousy of our rulers has forbidden the old English militia, and bestowed the name on a new institution. Arms are now purposely withheld from our nation, *as a nation.* London once had trained bands under the Lord Mayor: they are suppressed. All drilling of troops except under royal officers is made unlawful. Not only so; but even companies of volunteer riflemen, who would be chiefly gentlemen, are discouraged by every English ministry, who seem to dread a citizen soldiery precisely on account of its very excellencies, viz.: it makes the nation independent of great standing armies for home defence; it makes despotism of the Executive over the nation impossible; it puts no blind engine of power into the hand of the Cabinet as a threat and weapon against foreign nations. For these reasons our Cabinets insist on subjecting all militiamen to *martial law*, so as to make the militia no longer what it pretends to be, a citizen force, but a mere extension of the standing army in the hand of the central Executive. In consequence, the militia is justly unpopular; and the smallest legal fraction of England, instead of the largest possible, is trained to arms. Not so in America. There every town and every locality has its own independent militia and its arsenal. Although the people is so eminently commercial, yet the love of activity, of variety, and of title induces them to enter the militia, in the ranks of which are found intermixed all classes of the community—clerks and porters, grocers and lawyers—who receive promotion with reference to their military activity; so that many a petty tradesman has the title of captain, some of colonel or even of general. To use the phrase of Mrs Pulszky, "the people at large seem to be always playing 'at soldiers.'" At the same time there is a small standing army, as also a small navy, under the central Executive. This is a mere nucleus, but it can at any time be rapidly swelled into force, where the materials are so prepared on land and sea under the republican freedom.

But all England, while we write, is groaning under the sense that the noblest soldiers and sailors, the bravest inferior officers, and the best ships are all unavailing, and are but exposed to destruction, if supreme command is given to incompetent men, while those who wield the Executive power are under no control, whether as to their public policy, or as to their nominations to office. If we believe Mr Tremenheere and other assailants of the American Union, there is a constant progressive deterioration there in the Supreme Executive. Men are elected to the post of

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President, poorer and poorer in talent, men who have no policy, and little honour ; too feeble to control popular impulse, or too dishonest to bridle its follies and its crimes. Yet, after all, no President has been wanting in energy to defend the (real or fancied) honour of the nation, nor has there been any appointment of incompetent men to high civil, military, or naval command, at least visibly to foreigners. What check then does their Constitution provide for these imbecile Presidents?

Mr Tremenheere has a great many stones to fling at the American Constitution,—nothing, indeed, new, but such as our whig and tory press has long had at hand, to use whenever they dread that England might learn some lessons from across the Atlantic. Yet in his sixteen chapters and his sixteen ample notes, we find nothing whatever to teach us, if we needed teaching, either the civil or the military system of administration. He dilates on the enormity that Congress cannot displace the President and his Cabinet, as, in our happy island, Parliament can eject a Premier; yet no reader will make out from his book what sort of influence the Congress really exerts over the Cabinet.

This is precisely the point which at present most needs to be understood in England. Our nation, under the pressure of events, is opening its eyes to the painful fact, that the action of Parliament is fitful, uncertain, sure to be too late, therefore imbecile. The disease is discerned, but few discern the remedy. Parliament can destroy a cabinet, when such is its will, but it cannot reconstruct; it must destroy the whole cabinet, if it wishes only to remove one incompetent minister. Reconstruction is said to belong to "the Crown," and is now managed by a routine of formal rules. Peel, quitting office, recommends Russell to the Queen; Russell recommends Derby; Derby recommends Aberdeen; Aberdeen recommends Derby; Derby recommends Russell; Russell recommends Palmerston. The Queen is judged to do her duty laudably, in obeying the advice of the very man whom Parliament may be anxious to drive away from her councils. A clique of some forty men bandy the power of England backward and forward between them, not by any pre-eminent merit, not even by birth and rank, but by the force of routine, and an interior organization of discipline in each little faction. Parliament is suffering the common fate of despots. Having absorbed into itself a vast surfeit of business, it is suffocated by the mass of its own power, and becomes victim and

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slave to its own creatures. As the *Times* newspaper observed, we have heard of the Spanish king who died of over-roasting, because his attendants were so long in settling whose duty it was to pull his chair away from the fire. An English Cabinet, or its chosen officials, have sacrified to punctilio not one gouty and useless king, but a brave victorious army, and Parliament has sat by, groaning and helpless. Do we ask why? It is because, knowing that it cannot reconstruct, Parliament is so slow to destroy; we may say, so frightened lest it destroy. This paralysis its attempts to control. If it asks for information, it is told (what is constantly disproved by events) that the public interest forbids reply. Not one piece of information was wrung lately out of the Aberdeen ministry, until it was previously known from abroad, either by the open dealing of the Turks, by the gazettes of Paris or Vienna, by the English newspaper correspondents, or, finally, from St Petersburgh itself. If suspicion is shown, when a ministry is restive to Parliament, it sends out a whisper that any motion unpleasant to it may be accepted as a vote withdrawing "confidence,"—confidence meaning (it seems) despotic power. If a Committee of Inquiry be voted, this decides resignation of the Cabinet, so that the Parliament which wished only to control, unwillingly destroys. We have a high respect for the talents and integrity of Mr Gladstone; the claims of despotism which *he* makes do but show what they *all* make. In stating why he had left Lord Palmerston's Cabinet, he said, on February 23: "He retained his opinion. It was impossible for him to denounce a Committee of Inquiry into a great warlike operation still pending, *in more violent language* than he had used on the previous night. It was not the duty of the House *to govern the country*, but simply to *call those to account* who were appointed to govern the country." So an old Roman proconsul or praetor claimed to cut off a man's head first, and leave his kinsmen to accuse him for the deed at Rome after he had left office. The Parliament ought not to prevent the starvation of our army, but only after the starvation *call the ministers to account*. What empty words. That which in a case of extreme and flagrant neglect Mr Gladstone resents so "violently," is in America the *ordinary* proceeding, even when all is going on satisfactorily. Has then their Cabinet no functions left? While such claims of ministers are endured, every Cabinet becomes irresponsible, so, too, does every member of it. The "outs" back up the "ins," in order to maintain unimpaired

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the despotism which the "outs" look on as their own in reversion. Thus Parliament has to burn down a house, if it wants to roast a pig.

Nothing of this sort can happen in America, simply because Congress cannot destroy a Cabinet. A heavy battle-axe is not the weapon to guide man or horse; even a bridle must not be too severe. While our Parliament, because it can destroy, loses power to control; the Congress freely exercises control, because it cannot destroy. Its Committees are standing and ordinary; ours are occasional and exceptional. With them, Committees of Inquiry are *permanent, essential, and fundamental.* Cabinet ministers would there seem to be mad if they resented the inquiries.

The Senate or Upper House has the special right of confirming or refusing to confirm treaties and nominations to office. The President appoints his officers "with the advice and consent of the Senate;" such are the legal words of every diploma. In practice the *advice* is not asked, but the *consent* is indispensable. The President can always refuse solicitations from his own supporters by the plea: "The Senate will be sure to refuse consent." Congress would behave to a wayward or feeble cabinet as we behave to a wayward and feeble sovereign; *i.e.*, seek to control and manage, not to depose. In an extreme case the President might need to remove a minister who met nothing but opposition from Congress; with us, even in an extreme case, Parliament dares not aim to eject one member of the administration. Lest responsibility become real, the whole Cabinet make his case their own. Nor would a collision of Congress with the President, except in time of war, be so mischievous as in the parallel case with us; for the very smallest part of their legislative business goes on in Congress. The separate States legislate as energetically even during the destructions of war.

Every year, when the Houses meet, their first business is to constitute their Standing Committees,—at least ten in the Upper House and eight in the Lower. Those in the Senate may be thus recounted:—1. On Confirming Nominations to Office; 2. On Foreign Affairs; 3. On the Army; 4. On the Navy; 5. On the Budget; 6. On the Public Lands; 7. On the Territories (*i.e.*, *Embryo* States); 8. On (Financial) Claims; 9. On Petitions; 10. On the Post. *No Minister of the President can sit in either House of Congress,* but communications are close between each Minister and

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the Committee that deals with his topic. Five minutes across a table without oratorical display may do the work of many an hour, as *we* throw away public time. From the Committee *nothing* may be kept secret. No evil has yet come from this, only plentiful advantage. Although a Committee on the most important affairs is pledged to secrecy, the Senate can always by a simple vote demand free publication of everything. *In practice, this is not needed.* The Presidents know that secrecy is impossible and the effort for it unwise. They rather make a merit of publicity, without which they cannot get the needful support for their policy from the public nor from the Senate itself. All despatches in the Foreign Office are filed when they are a fortnight old, and every member of the Senate has free access to them. Even private citizens of literary repute easily gain admission to peruse any document. Thus *Secret Diplomacy is annihilated.*

Of late years Congress has found too much time consumed by the Committee of Claims. In consequence, a Judicial Court of Claims was established in February last to discuss these cases. Congress will now merely have to give a formal confirmation to the awards of the Court. So energetic are our Transatlantic kinsmen against that great evil, an excess of business for the Chambers.

Thus out of two cardinal facts, (1) that the ministry does not rest on a majority in Congress, (2) the power of the Senate over nominations to office and foreign affairs, arises an active life to Congress wholly independent of ministerial action. This fits it to be a real and constant *check* on the ministry; a check to which we have no parallel. Our public has come to fancy that the great business of the *Executive* Government is to *legislate*, and that to enact a law against the will of the ministry is equivalent to a vote of No Confidence! Though an existing ministry may *as administrators* be as good as we are likely to get, we must, forsooth, discard them if in some new legislative topic they displease us. Moreover, by exacting that Ministers shall sit in Parliament (from which the American Union excludes them), we limit the choice of good administrators, and increase embarrassment by requiring re-election on appointment to office. The etiquette of official routine often forbids appointing the best administrator to the post which most needs him; and he must be not only fitted for the strictly ministerial tasks, but (at least to take any lead) he must have "a power of debate," a familiarity with the rules of the House, and a skill in adapting himself to its habits of mind

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a skill ordinarily needing long experience in Parliament and early habit. A noble mind which seizes main points and trusts broad truths does not tell on the House so much as a combative intellect, skilful in exposing weak points in adverse speakers. A premium is set upon clever talkers. On the whole, with us, the choice of the best administrators is perniciously limited, and no constant or active check is exerted by Parliament on the ministry. No important legislation can go on during a war, because ministers are pre-occupied, and "*private* members "(as they are now called !) are not allowed to initiate anything important. What a dwarfing and crippling of Parliament! When the affairs of India were before the Commons, Lord John Russell pressed forward an unacceptable India Bill by the whisper, "If you do not take our India Bill this session, you will not get my Reform Bill next session." The House gave way, but lost the promised reward, *because* war with Russia loomed in the horizon! Sir Charles Wood annexed Pegu, and gravely informed the House that *he was himself responsible for the deed.*

It is not by imitating French centralisation that we shall lessen these evils. Reform must be sought in the direction not of more despotism, but of better checks on the Executive; in the direction of America, not of France. Democracy and Universal Suffrage do not even save liberty, if functionaries and centralization rule. *Voluntary* Political Associations are like crutches, useful only to one whose limbs are crippled. Our first want is a Parliament independent of Ministers, and able to act as a check on them; a Parliament equal to its own work, and not burdened by loads of local bills, which are not its proper work.

[*Much is omitted or abridged.*]

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INTERNATIONAL IMMORALITY.

From the "Westminster Review," July 1855, *with omission and condensation.*

WHAT student of History can fail to be affected painfully by the international records of the past? Virtuous men in private life are everywhere to be found; in fact the majority of every community appears oftener on the side of justice than of injustice in regard to all internal questions. It is the few, not the many, whether called thieves, robbers, statesmen, or princes, that sometimes thrive by iniquitous practices. Nor is Virtue wholly unknown to statesmen in relation to their own land. Real patriotism is found among them and is recorded in history; patriotic kings and queens can be named; nor can we doubt that in every community which enjoys a firm prosperity, public virtue must decidedly prevail over its opposite, however little there may be for the historian to record. But when we pass from internal to international concerns, we seek in vain for a virtuous nation. Each community, as in turn it rises to power, disdains all law of Right, and submits only to that law of Force which it everywhere seeks to impose. Hence the history of the world is stained with every crime that makes man odious; and the misanthropic doctrine which teaches the absolute wickedness of the human soul appears to have a triumphant proof, when human nature is tested on the widest scale of time, of races, of forms of government, of climate, and (must we not add?) of creed.

Something has been said to explain this broad, obtrusive, and dreadful phenomenon from the opposition of languages. It is chiefly by language that man recognises the soul of his fellow-man. Intercourse of speech reveals to us sameness of sentiment and capacity; and awakens sympathy which slumbered before. Men of strange tongues are often so unable to exercise mutual trust, so liable to mutual suspicion, that they become as wild beasts to one another, and feel war to be their natural inevitable relation. In an unappeasable war fraud is called stratagem, truce and treaty are impossible. Perfidy on the part of the enemy

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is counted on; perfidy on our side seems just and necessary. No moral bonds are acknowledged, and in the use of victory no account is taken of the original cause of quarrel. Such is a rough outline of the quarrels of the English race with savage tribes: hence some are tempted to press the topic of *language* as the main reason of the funereal events of history. We do not believe that this solution goes to the bottom, or accounts for more than a small part of the lamentable facts. We have only to look to the republics of ancient Greece or of middle-age Italy, to convince ourselves how little the possession of a common language will suffice to avert the injustices and atrocities which characterise international relations. Thucydides, prosaic as he is, has a half-poetical phrase in which he sums up the conditions essential to any firm justice between State and State, namely, "æqui-brandished terror." *Unchecked power*, by reason of human frailty, seems to become essentially immoral. As the Attic Tragedian asks:

τίς γὰρ, δεδοικὼς μηδὲν, ἔνδικος βροτῶν;

"What mortal is just, if there is nothing which he fears?" (nothing of which he stands in awe?) In a collection of States which does acknowledge international policy (whether as in ancient Greece or in modern Europe), one or two towering above the rest, aspire to universal dominion; and even if repelled by combinations of the others, infuse and enforce the acceptance of "the law of the stronger," as a fixed and recognised principle. All readers of ancient Greek history are familiar with this, but it is equally manifest in the whole history of Europe, where we cannot say that language separates the sympathies of cultivated statesmen. Not merely during the period of chaos, before the limits of States were established or national languages formed, but ever since down to the present day, the history of Europe has been a record of struggles in which the greatest States disdained the restraint of mere Justice, and regarded everything weaker than themselves as their appropriate and rightful prey.

In this whole subject a dangerous illusion besets each generation and each nation in its turn. We see the mote in the eyes of others; we see not the beam in our own. In meditating on the past, we are amazed at the atrocities and mutual perfidies of English statesmen and the frequent contempt of Justice in the foreign wars of our ancestors. Indeed, we find no difficulty in sternly condemning our grandfathers. The war against the

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American colonies is now reprobated in principle and detested in its details. We declare that to tax the colonies was unconstitutional,—that the attempt to cripple their trade and their naval development was an indefensible injustice; while to have roused the wild Indians to attack the peaceful dwellings of our colonists and massacre the inmates with the tomahawk, we pronounce to be an execrable atrocity. Nevertheless, the men who were guilty of these acts, carrying death to many thousands, misery to myriads, and disgrace to England, were in their day respected as kind and virtuous, good in their families, trustworthy in daily life, honourable in Parliament. The same may very often be said of those who supported the most flagrant usurpations and the most violent tyrannies. Read of men's acts in public, peruse their secret documents, and they may seem to be devils, veiling cruel injustice in hypocrisy and fraud. But meet them in a drawing-room, or see them in their family circle, and they appear so good that you are ashamed of your own secret thoughts against them. So it is, that each generation in turn, which sees the conduct of its own statesmen to be in private life respectable, infers that in public life, and especially in foreign affairs, it cannot be very bad. As for those who are far off in time or place, whose faces we cannot see, whose private virtues we cannot know,—the conduct of these is not defended against the plain, stern testimony of facts. That the statesmen of Russia, of Austria, of France, of Prussia, of Spain, may be unprincipled and even wicked, is not found by us to be wholly incredible. On the contrary, even ministers of the Crown and other public men who are most guarded in language, let out plainly now and then what they think of foreign morality. Nor are despotic Courts alone implicated in our imputations. Our most Conservative reviews, our most self-sufficient journals, tell us in language of awful strength how wicked are the popularity-hunting, "filibustering," and slavery-fostering statesmen of the New World. Thus by close induction we reach the satisfactory and interesting conclusion that the statesmen of all *other* countries and of most *other* times were unprincipled, and occasionally atrocious; while in our own favoured time and country our statesmen, though full of minor frailties and prejudices, yet are so truly respectable, amiable, and honourable that it is quite impossible for *them* to have made light of moral obligations and committed public wrong on foreign nations.

That this is a dangerous illusion ought to be seen by the like

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persuasion being current abroad also; where, though a people may have much displeasure against their rulers, yet, if foreign war arises, they invariably conclude that the foreigner is indefensibly wrong. At this very moment the Russian people believe that in the present quarrel the late Czar Nicolas was in the right, and we in the wrong;—though this is not a powerful illustration of our point. Here, as so very often, a vice springs out of virtues which are indulged out of place; we mean the virtues of candour and humility. Private men are aware that their knowledge of foreign facts is very imperfect. They presume that the statesmen of their nations are better informed; they believe they ought to make allowance for their own ignorance. Thus, even when they feel painfully how faithless and violent a deed may *look*, they make sure that it can be explained. "It is more probable," says each in his turn, "that I imperfectly understand the facts, than that my Lord A. or the Right Hon. Mr B. is acting unjustly and is careless of bloodguiltiness." The more wicked the facts appear, the less possible it may be to convince the public that guilt is rightly imputed; and because each nation in turn argues thus, those awful deeds of violence and cruelty become possible, which make International History a record of crime and of shame.

A fair consideration of the *a priori* case suggests as reasonable precisely the opposite presumptions to those of indulgent candour and private humility. Candour ought not to lead us to explain away an evil deed. We may refuse to brand a duellist as a murderer, yet we must not pare away the evil and guilt of duelling. If a prince or statesman plunges two nations into deadly war, candour must not be allowed to do more than *account for* his recklessness; its intense evil remains the same, and its essential immorality. Now it is proved by endless experience, that statesmen, whatever their knowledge of detail, live in an atmosphere most unfavourable to simple and upright truthfulness. Nearly all who have been trained in a long routine of office have been educated into systematic insincerity. An unofficial man may give vent to earnest feeling; a statesman hardly ventures to express a sentiment which may hereafter embarrass him. Unless he chooses to be thought too self-willed for collective action, and to be labelled as crotchety and cantankerous, he may not aspire to keep a private conscience; but must defend the conduct of his superior or his party, even when to his own mind it is indefensible. He must use arguments which he does not regard as sound, and suppress facts which would tell the

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wrong way. Arguing from a corporate conscience (if there is such a thing) he is essentially a hired pleader and an actor,—we mean in England *where ministers sit in Parliament*, with contradictory duties. Then, alike in secret correspondence with despotic powers, and in a royal court, though not despotic, free utterance from the heart is unendurable. Excuse this as one may, the fact remains, that a mind thus trained becomes less truthful and less just, less sensitive to the claims of Right. Men who have to pay smooth compliments to proud unscrupulous despots, and to associate with them as exalted personages to whom they look up, cannot easily preserve in their hearts much freshness of feeling against injustice. Reason therefore suggests that we should look with *a priori* suspicion on all professional statesmen, as likely to be (unawares to themselves) more than other men jesuitical, false, and unjust. *A posteriori* testimony confirms this view; and Adam Smith did not shrink from using the phrase, "That crafty animal the statesman."

Look from another point. Rhetorical treatises lay down, "where crime is more easily hidden, crime is more readily committed." This applies to foreign deeds, which are buried in secret diplomacy and do not easily arouse the scrutiny of a jealous public. The same cabinet will perform high-handed acts in Asia or some distant land, which it would not dream of in England or Europe. See how differently our "Liberal" ministers behave to refugees in Malta and refugees in England. To expel these unfortunate and generally honourable men from England would seem to whigs an enormity and to tories a national degradation. Yet in 1849 the refugees from Rome, driven out by unjust French violence, were (under very cruel circumstances too) refused leave to land at Malta; and lately, if the public journals are correct, an editor of a newspaper was banished from Malta for printing in Italian an address of Mazzini which had appeared in the *Times*. Ministers know that no retribution will follow a deed which is not under the eyes of the English public. To yield to evil pressure costs them nothing, to resist it might entail some inconvenience.

A painful corroboration of our topic is found in the proverbial misgovernment of colonies. Violences which in England would not be recommended by statesmen of any colour have been perpetrated by living statesmen in Canada, in Ceylon, in the Ionian Isles. Canada is no longer misgoverned; but why? Because our Colonial Office has at last renounced all pretence of

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governing. Ireland is a long story; may we hope no longer misruled? but India is a scene of dreadful misrule; in each case from the absence of an active continual check that could give publicity to grievances and enter protests.

When any great collision convulses human morality, it is with us an axiom that there is great guilt somewhere. On one side there *must* be—on both sides there *may* be—great guilt. The guilt may be palliated by the plea of ignorance, of rashness, of blundering; but in these great events a blunder may be on the scale of a crime. No one can be so paradoxical as to maintain that real intelligent virtue can call on two individuals in an infantine state of society to aim at each other's lives, neither being guilty. We look on a blood feud between two Arab tribes, which draws sentiments of honour into implacable battle, as a mournful fanaticism. We may apologise for both the combatants, but cannot justify the principle. Surely the same law must apply to national conflicts. Future moralists will perhaps decide that man should in no case use deadly violence against his fellowman, except where the morality of it is so plain that the person attacked *ought* to know himself to be wrong. To object to abstract principles in politics is a covert for objecting to all morality; it can have no other practical meaning; it merely reserves for statesmanship the right to take any side which may be convenient.

Some of our "practical men" have persuaded themselves that neither individuals nor nations have any rights which *must* be respected at any cost. The liberties of England having survived the storms which elsewhere wrecked law and right—Holland and Switzerland alone on the Continent being excepted—some have come to regard our own liberties as our right, *only* because they are historical and unbroken. The Hungarian motto is, "Freedom is ancient, and Despotism a modern usurpation;" but if any foreign nation seeks to recover the laws and rights of which it has been despoiled by the perjury of its prince or violence of a foreigner, our Stock Exchange (which has lent money to those princes) is naturally in terror, and its highly-educated hired penmen blaze out into philosophy against the "wild theory" of liberty or of republicanism; a wild theory, as though Switzerland and Holland had not been flourishing republics, or as though the United States of America were a theoretical and airy abstraction. Under pretence of not being *doctrinaire*, some of us become insufferably pedantic; insufferably, because they

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disown morality in politics, and become unjust to foreigners who are struggling under oppression. The real struggle in Europe now is not for Republicanism *as an end*, though in special cases *as a means;* but with the many, it is for Nationality; with the leaders, for Morality as the basis of policy. The many desire administrators and organs that speak in their mother tongue and regard their local ancestral customs. The leaders find a religion in State Morality. The perfidy of Courts makes many despair of royalty: this is what gives impetus to republicanism. In Germany it is asserted that all the princes but three broke their oaths to the Parliament of Frankfort in 1848. The King of Hanover (our old Duke of Cumberland) had been hated for overthrowing there the Constitution granted by his brother, our George the Fourth: we understand, he became popular in 1848 simply by *not* breaking his oath! Hungary desired only that her ancestral laws should be observed, laws to which every Austrian king punctiliously swore—indeed signed his name to a personal engagement; yet every king of the dynasty had flagrantly and unceremoniously broken the solemn oaths. The existing king was not blamed, for he was judged to be imbecile and the tool of others. Hungary fought in his name against her Austrian invaders, and had no desire to eject either the monarch or the monarchy. When this Ferdinand was deposed by *the Austrians*, against Hungarian law, the Hungarian leaders would have accepted the Archduke Stephen as king, but he refused. They asked Queen Victoria to give them an English prince for a king, but our ministers refused. Hungary became republican from despair of justice; and Kossuth says, he did but follow the movement after it became national. Lord Palmerston avowed that it was national, and that the war was strictly defensive of ancestral law; yet, even when Hungary was victorious in a good cause, England refused to *acknowledge* her belligerence (though it was matter of public fact), and thereby hindered her from buying arms to resist Russian invasion. For this injustice we are punished by our present war. We were bound to mediate when Austria broke the peace which our mediation established in 1712. But *morality is not the law with our statesmen.* That Hungary should recover her national rights, would (according to Lord Palmerston) have been a European mischief; therefore we refused to mediate and stop bloodshed.

Poland and Italy also desire, first of all, *nationality;* but neither a fractional Poland nor a fractional Italy would stand. Deeper

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still lies the question: Is Right to be recognised in the affairs of nations as paramount and sacred, equally as in the affairs of individuals? The heart of the people everywhere says, Yes! The Republicans of Europe (alas! not of North America) decidedly say, Yes! Only the dynastical faction, both in England and on the Continent—the secret diplomatists and the organs of the Stock Exchange, unanimously reject the supremacy of Right, and even deride the idea as a childish enthusiasm. EXPEDIENCY is their guide. If the Expedient happens also to be Right, they will, no doubt, be eloquent on the latter topic; but, to judge by their uniform conduct, Right which does not meet *their* notions of Expediency has no chance of support from their pens, their voices, nor yet from their private sympathies. In this contrast we see upon the Republicans the mark of martyrs and heroes. "The Kossuths and Mazzinis," of whom the Czar Nicolas spoke to Sir G. Hamilton Seymour with mixed contempt and fear, may meet the lot common to the apostles of a new creed; but they are preaching a nobler practice and a higher faith than our routine statesmen dream of. To such apostles the Future belongs; they may die before their cause triumphs, but triumph it will. The human heart responds to the faith, which kindles *them*, and enables them to inspire the hearts of others. On the same exalted platform stand the Abolitionists of the United States—men sometimes fanatical, but always upright, resolved to act on moral principle, and to sacrifice the convenient, the pleasant, the easy, the apparently or temporarily Expedient to the sacred certainty of Right. These are in America what the votaries of Nationalism (accidentally republicans) are in Europe; apostles or martyrs, not for a new creed, nor for any theological opinion or dogma, but for applying ancient and sacred Duty honestly to the highest affairs of nations, equally as to daily and hourly life. Herein lies the real struggle for a New Moral World.

We pride ourselves on Christianity and look down on Greek and Roman Paganism, yet the same controversy as arose among them is still unquelled among us. Pericles could not answer the argument of young Alcibiades, who, from the violent conduct of Athens to her allies, deduced the right of the strong to enforce their will on the weak. The conduct of "THE CITY" had a most corrupting tendency on the citizens; *her* conduct was put forward as a law of life, and as a sanction for *their* conduct. Rhetorical debaters pleaded that the powerful had always indulged the propensity to domineer and always would; that to fight against this

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law of nature was vain; that this generation had not originated, but had received, from time beyond memory, the law that the stronger should enforce his will, and the weaker give way. The idea of Justice, for which Aristides had lived,—justice between nation and nation, as well as between the Orders of a nation,—was exploded as a dream; and "simplicity of heart, which enters so largely into noble natures, was laughed down and disappeared." Thenceforward, public action became predominantly a scramble of selfishness. When the guidance of Justice is scientifically rejected, Expediency, its most unscientific substitute, is a Will-o'-the-Wisp, changing shape every minute, and surely leads its followers into bogs of disaster. . . .

. . . After such events, can we wonder that the epithet "perfidious Albion" clings to us? It is not the mass of the people that is perfidious. The real nation is often ignorant of facts, but never wrong at heart. On a retrospect since 1815, we are surprized to observe how right on the whole has been the popular judgment,—how it has been confirmed and justified by events. In 1815 peace was welcome, and for more than thirty years no foreign event stirred England deeply, except the Turkish massacre in Scio. In 1849 the events in Rome and Hungary excited us anew, and opened our eyes to the conspiracy of despots against these two nations. The popular instinct felt the crisis, and urged the ministry to acknowledge Hungary as belligerent, open trade with her, incite the Turks to do the same, and protest against the Russian invasion. The half of this would have saved Hungary, and have spared us this Russian war. But whigs and tories and the Stock Exchange in complicity with Austria, conspired against Right; and were surprised to find that when Austria was become dependent on Russia, she was no longer a check to Russia! Such is the unwisdom of those who "drift" with the gusts of EXPEDIENCY.

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ON ADMINISTRATIVE REFORM.

1856. After Agitation concerning Balaclava Blunders.

[A strong effort was made to form a Society for this object. I was asked to join it, and wrote the following. I believe it was not approved: certainly it was not printed. *No agreement adequate for a political Society came out.*]

I CANNOT profess much hope; for without publicity as to Foreign Dispatches and other fundamental change—beside the improvement needed in Public Morals—it is hard to be sanguine; yet neither ought we to despair.

Notoriously men have less conscience in public affairs than in private, and less in dealing with public money than with private, hence far stronger checks on malversation are needed, and from the nature of the case they are in themselves weaker. The head of a private firm loses heavily, if negligence and extravagance prevail in his office: the head of a public department, unless convicted of embezzlement, loses nothing by decorous mismanagement, rather he is apt to lose by any wise severity; for this is sure to raise up for him private enmity.

Edmund Burke despaired of Reform, because the *public* is not grateful to a minister for the severities which are essential to Reform, yet he exasperates *individuals* by them. Does this state the worst? Perhaps not. Just as a minister, whether by his own impetus or his prince's, finds it easier to make war because his predecessor was peaceful, so he is more easily induced to run up a new debt, if by sage economy and self-denial a huge debt was recently cleared off. There is no greater discouragement to Reform than the expectation that you labour in vain. Thus no one seems to care about paying what used to be called "the King's Debt," because we have no security against the instant contracting of another. We need new principles that shall be accounted sacred, and shall seem to work automatically, else no reforms stand.

We want a high independent authority that can call Ministers to account. This can only be a Parliament, Ministers should have no power to disband it and paralyze it. It will of

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course be said, that this is to invest the Legislature with the Executive Government: but such an assertion is groundless. If a Senate is to enact Laws, it must exact observance of the Law; and be able to expel one who is entrusted to enforce it, if he fail to enforce it, whether in his post as Administrator, or as judge of crime. Without this power in a Legislature, its law is vain. Therefore it has to call for returns to acquaint it with official facts. It must stand *above* all ministers; but its superiority does not supersede them. The English vote of "Confidence in ministers or no confidence," avows the just principle.

Plain as is this principle, those who desire lavish ministers pretend that no able men would submit to the indignity of accepting office if Parliament is to re-judge their doings. But a Parliament is greater than individuals, and men ambitious of office are not so absurd. Despotic Princes and Cabinets, in like manner, pretend that *Kings* will not submit to the indignity of being controlled by a Parliament.

Assuming that Parliament *ought* to exercise a constant general control over the Executive, the question arises, *Why* it does not now? *First*, because of Secret Diplomacy. Ministers carry on correspondence with foreign Powers as servants of "the Crown," and can always find plausible ground for concealing what they are promising or threatening, though their secret action may entangle us unduly in grave responsibilities. The United States of America destroy secrecy by investing every member in their Senate with the right of inspecting all documents in the Foreign Office. We might adopt some similar method of forbidding the Executive from keeping any secrets from the out-party, but until we do so we shall be duped in foreign affairs.

Next, because Parliament has allowed Cabinets to have a corporate existence and special corporate interest. That which is truly a faction or a club we dignify as if in parity with a legitimate *Order*. The mediæval clergy struggled against their members being amenable to Civil Courts. So our Cabinets struggle to exempt Executive officers from the judgment of Parliament; and (to use the popular trade-word) threaten to strike *in a body* against the Parliament, and insist that they will not serve unless they can rule. If a Ministry resign,—Ministers being legislators! there is enormous disappointment in half-carried Bills, immense private loss, and risk of Parliamentary dissolution; all as if made to facilitate irresponsibility. Moreover, the out-party is largely in *collusion* with the holders of office. It hopes, ere long, to

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succeed them, and will not restrict the licence which may soon be its own. Large "Patronage" oils the wheels of Government. Besides the expectants of office, the supporters of each party hope to be more or less dispensers or recipients of patronage. Surely we need not wonder that Parliament has no effective control of lax, vicious, ill-directed expenditure and of ill-bestowed appointments.

When supporters of a Ministry look to receive as their reward some share of patronage, this is a real payment for their votes, an indirect bribery. That as a system it exists, confessed and unrebuked, is undeniable, when the "Whipper-in" will even *threaten* "never again to ask a member for his vote" if he is shy to give it on an occasion desired. He is clearly aware that the report of names which he can make at the Treasury may affect the members' interests. Yet surely each M.P. is under moral and urgent duty to vote according to his personal convictions of *right*, and not make a minister's convenience paramount.

We need not here inquire whether an oath or a solemn affirmation is exacted of an M.P. Suppose the latter; then our first step of cure here obvious is, to add to it the solemn avowal, "I will never *ask* a minister to give patronage or promotion to any one, except if this be my official duty." Side by side with this every holder of patronage ought *in ancient Roman fashion* to avow solemnly, "I will recommend for every office *the best man I can find* (*optimum quemque*) without regard to personal favour."

Many will pretend that because kings have so often violated oaths (and in Hungary written engagements too), therefore oaths or solemn affirmations for office are vain and hurtful. I think this a dangerous mistake. Manifestly Parliament knows that no check to bribery is so effective as making the Committees for its restraint *judicial*. So long as they are not, they have little conscience against acquitting the guilty. The real dislike to make the engagement judicial is the conviction that it will be disagreeably effective.

We are not worse than the old Romans. Their *consuls* elected to the Senate by favouritism, while it was not disreputable. When a Plebeian Bill vested the election in the *censors* under oath to elect "every best man," the improvement was immense, and the Senate became really a body of their "best men;" until through the vast slaughter of Senators by Hannibal, a well-meaning Dictator, changed (by his precedent!) the election into one of routine.

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Of our public men, too many are unscrupulous, while they may decide by the law of Expediency; for they feel it highly inexpedient to damage and offend the powerful. But if they have made Solemn Promise to decide by Merit, surely the number of the unscrupulous will be gravely lessened.

Moreover, the struggle for such an addition to the public engagement of Parliamentary men would awaken the nation's conscience; thus the very discussion would do good.

Not that I expect any high improvement of which we can be proud without changes still more cardinal, as to which some other nations have preceded us. *First*, No Foreign Treaty must be valid until ratified in Parliament. Out of Treaties most of our wars arise, by aid of Secret Diplomacy; and the Cabinet having control of a movable fleet, does not ask leave of Parliament to use it as an instrument of terror. *Next*, the Ministers ought not to be eligible to Parliament, or have Legislative as well as Executive duties. Not only are different *qualities* and capacities needed for the double service, but the result follows, that while the vote of Legislators ought to be as sacred as the verdict of Jurors, they are liable to be scolded as traitors to a Party, cantankerous and unprincipled (!) if they follow their best light. *Thirdly*, Here, as in the American Union, every high officer should hold his diploma dependent separately on *appointment* of a superior (the Sovereign or the President) with the consent of the Legislature. Thus he would be liable to separate ejection if the Legislature withdrew its *consent*. Against such a broad duty and privilege of the House, no Premier would dare to threaten a strike of his whole Cabinet.

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PARTY GOVERNMENT.

From the Westminster Review, 1858, *condensed and greatly abridged.*

ENGLAND collectively has not made up its mind what organic changes are desirable; but we may without rashness assert that the nation, as distinct from the public men and from the journalists, is weary of Government by Party. By what means National Policy may supersede Party Government is a truly difficult question, because the evil is an immorality supported by immoral theory which infests nearly all public men; hence we are as yet a long way off from the cure. Never was in old days the nation more of one accord to restrict Royal power than now in disgust with Party rule. Interests which in a petty State are despicable, become monstrous when they pervert the government of a great Empire. A personal contest for mere power, among those who have been entrusted to do battle for Right, is a dereliction of a statesman's duty. Simple minds understand and feel that the Right and the True ought to be the most precious of interests, and are apt to assume that our chosen legislators and high officers are morally incapable of consciously sacrificing truth to serve their party. At the same time, even those whose worldly experience has blunted sensitiveness, are often scandalised at the weltering helplessness of Parliament, and the strange scarcity of possible leaders. The dreary alternations of Russell-Palmerston, Derby-Disraeli, Aberdeen-Russell, Palmerston-Russell, Palmerston *consul sine collegâ*, and Derby-Disraeli again, make a jingle worse than Chinese music. It seems as though the petty resentments of some, the inordinate claims of others, the banding together under two or three chiefs, drive the Queen and the nation to their wits' end for a government. What right have they to introduce a private personal organisation, not so much an *Imperium in Imperio* as a faction and cabal, aiming to secure that neither Queen nor Parliament shall control them?* Some such as these, from various points of view, are the mutterings of the nation.

* **Note in 1885.—The above was written before it was known that Prince Albert had a Belgian Baron (*Stockmar*) as his secret Foreign Secretary;**

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Meanwhile the statesmen appear to scorn, as absurd ignorance, the idea that Parliamentary Government can have any practical meaning, but the holding of the high executive and the initiation of law in the hands of a party leader. To have two parties and two only, seems to them a natural necessity. They look with indignation, suspicion, or contempt on a public man, who, except on the rarest occasion, separates himself from his party to vote for the right or against the wrong. Such a man is thought to play a conceited or even dishonourable part, and manifest his utter unfitness for office, to which he is regarded as bidding adieu for ever.

As with War, so with Party, a morality comes in appropriate to it. To become a spy, to use a false passport, to steal on the enemy by night, to give him false information, are honourable in war: corresponding deceptions are honourable in party warfare. War forbids those violences as mere cruelty, which do not conduce to victory: Party also forbids those attacks which do not tend to a secure possession of power. Especially whatever tends to increase the power of Parliament over Ministers, such as a *Coalition* of statesmen between whom very little difference remains, is flouted with grave rebuke, as weakening the ascendency of office-holders and degrading them into obedience to the legislature. The Statesmen know their own game, and pursue it continuously, on system, with unanimity. Party, indeed, is opposed to Party; but neither Party will oppose the principle of Party Government. Our bureaucracies on neither side will drive the other to despair, lest the beaten Party betake itself to honest Nationality.

Whigs and Tories would persuade us that we live under a *Responsible* Government, but no real responsibility appears. Of course we do not mean that any minister can with impunity break the law to the hurt of a private person; the people themselves would resist any attempts at the old lawlessness of the Executive. But for wickedness of policy, as the entering on unjust war without debate in Parliament, the engaging in treaties eminently foolish, or by their injustice certain to entail war, even for unjust war followed by disaster, they are not punishable even by personal censure, much less by exclusion from future office. In every Ministry the policy on each topic is settled by

that the *Imperium in Imperio* was that of the Prince, who (with Her Majesty's warm approval) claimed to control Foreign Affairs; and that the English Ministers did not dare to reveal this entanglement.

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strictly private conference; and, after it is settled, each member is expected to act for it and argue for it, as if he sincerely approved it. It is never certain that even the ostensible chief himself has since reapproved of his own policy. To sustain this system it is made a primary duty to conceal how each voted in the Cabinet, and (we understand) no record of this is kept. This is the essential difference between a Cabinet (which is a mere unconstitutional clique) and a legitimate Privy Council, such as that of Queen Elizabeth. The modern Cabinet Ministers have no individual responsibility; the responsibility (so called) is only *collective*. Guilt cannot be fastened on anyone, unless it amounted to high treason implicating one and all. For immense folly or actual wickedness to the foreigner the collective punishment is a temporary ejection from office; a lot which ordinarily befalls the most innocent of cabinets from natural causes, as from the death of a leading man. In general, the disgust which ejects them is cumulative. They manage to resign on some small pretence, in order to evade any Parliamentary specializing of the main offence which they have given.

All this might seem transparent, but it is not superfluous to illustrate our argument by a particular case. No one any longer defends the Afghan war [of 1839]. Its direct object was criminal—that of imposing a king on a people who hated him, imposing him, not because we thought him likely to rule well or to have any sacred claims, but because we desired to have on that throne a puppet of our own creation, submissive to our policy. To achieve this object we forced our way through Sind and the Punjaub, laying the foundation of new wars. The immediate result of these violences was, to the Afghans, much ravage and desolation, to us the horrible slaughter of a noble army, twenty-three millions sterling added to the Indian debt, and a permanent deficit in the Indian treasury. The invasion of India by the Sikhs was a secondary result. How much the loss of reputation has contributed to the recent Indian insurrection, no one can compute. It has been said that *four* persons planned and achieved this Afghan war; but no one has been called to account; all public debate, coming when the evils were irretrievable, was judged fruitless. Parliament knows well how impossible it is to visit the crimes of policy on the head of the authors, however deadly the results to the Empire.

Constitutional lawyers tell us that for purely legal reasons,

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impunity to ministers is inevitable. Even in popular compendium this truth slips out. We turned, quite at random, to Hugh Murray's able Encyclopædia, and found, p. 355:—

"1578. A Cabinet Council is not, strictly speaking, recognised by the Constitution, but by usage is regarded (!) as a body selected by the Sovereign to conduct the business of the State. The members composing it are held (!) to be the *responsible* advisers of the Crown. *This responsibility must rest on their honour;* for it is by no means certain that any advice could be legally traced to them as confidential servants of the Crown. Nor are they liable to impeachment in their simple capacity of Privy Councillors, *which they generally share with opponents.* The responsibility, however, is imposed by the maxim that "the King can do no wrong," and is virtually (!) acknowledged by the act of resignation generally adopted, when the policy recommended by them is not approved by the King."

"By the King!" Any simple reader might have expected "by the Parliament." We of the laity hardly know how to think a lawyer serious who argues, "Ministers resign when the Sovereign will not take their advice; *virtually confessing that they are punishable by law* if they let him guide them." There are obvious reasons why they would rather dictate to the Sovereign than become his tools.

Moreover, of the apparent responsibility no small share, when a minister thinks it worth while, is successfully cast on the House of Commons. Undoubtedly, if that House and the nation behind it have set their heart on a particular thing, they always can get it, not perhaps at once, but in one or two years, as the great Reform Act was demanded in 1830 and extorted in 1832, by vast effort. But meanwhile the Commons have little power over anything. The minister who is their organ for winning the one thing on which they and the nation are bent is almost despotic as to everything else. He is so necessary to them, his resignation of power would be so disastrous, that they are forced to vote on all topics just as pleases him; and secret diplomacy veils all foreign affairs, such as Treaties and the use of English fleets, and threats for intimidation, from the knowledge of Parliament itself. Temporary dictatorship in one man is at certain crises both valuable and safe to a free nation; but the higher the power entrusted, the more complete and real ought to be the responsibility. With us, the more powerful is a ministry, the less is its responsibility. For the power of a ministry culminates when the nation vehe-

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mently demands some change. At such a moment there is no foreign or colonial blunder (to speak mildly) which the Cabinet cannot commit, and manifold other errors, practically unchecked. It may make away the breadth of North America to a mercantile company, or give vast tracts of land to the clergy or Court favourites, and hereby lay the foundation of great future evils. It can cast its own deeds on Parliament by requiring its complicity. Our readers must remember how the India Bill of 1853 was forced upon an unwilling House by Lord John Russell's whisper, "If you do not take our India Bill this session, you will not get my Reform Bill next session." Most readers are familiar with such arguments as the following, which dropped on our ears from an M.P., an advanced Liberal, on a certain occasion: "What a scandalous Bill!" said someone to him; "of course you will vote against the ministry." "What!" replied he, in surprise, "you do not want to see Lord Derby in again, do you?" In the same spirit that incorruptible, right-hearted, and useful man, Joseph Hume, declared in July 1832 that he would rather vote that black was white than give a vote that would let in the Tories; so demoralising is our political atmosphere. He did, in fact, vote with the ministry, while avowing that they were wrong. Few are so frank as was Joseph Hume, yet undoubtedly his logic is predominant. Nearly all think that their *first* duty is so to vote as to keep a certain ministry in, or another ministry out, whatever the merits or demerits of a Bill. As for the men who calmly and conscientiously vote for the right and the true (so far as they can get light on the topic), they are few indeed; and for their honesty they are not honoured even by the Liberal organs. Rather is a man called unpractical, conceited, wrong-headed, who offends their party zeal.

The Crown also finds its advantage, while the nation is preoccupied with the single object. The events of the Reform Bill belong to history, and some details which could only be whispered at that era may be printed now. At the very crisis King William IV. insisted that £100,000 a year for life should be settled on Queen Adelaide, and threatened to eject the ministry if Lord Grey refused. Finding the King obstinate, the ministry had to compute the certain loss and contingent danger from prolonging the struggle. They judged this to be worse than two millions paid down and most reluctantly yielded. The Radicals of the House were secretly assured that the ministry were under constraint, and the thing *must* be. This single instance must be a type of much that is veiled in secret.

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The gravity of this state of things is enhanced by its immense effect in filling the services, civil and military, with incompetent men, high in place. In our existing low morality, such men will be appointed by Court favour or to gratify some powerful noble or active partizan. But *just in proportion* as Office-holders (however appointed) are really punishable for bad government, in that proportion does government improve. The fear of public censure, and much more of ejection, is a powerful stimulus to diligence and exertion. This fear cannot impart high talents to those who have it not; but it may do wonders in repressing laziness, neglect, and criminal enterprize. Men in office ought to be punishable singly. We have no belief in the scaffold and axe by which Mr David Urquhart would keep ministers in the right way; but if every act of high power could be traced to its legal author (which the principle of party forbids), and he were liable to have to defend it publicly, a vast improvement would follow. But the lamentable result of the present routine is, that the very ministers who are over-powerful to yield to foolish and ruinous appointments, to mis-spend vast sums of money, to entangle us in needless and cruel wars, and to damage foreign liberty by intrigue,—those same men by the very same routine are feeble to repress malversation, to enforce justice towards weak dependents, or to support foreign and rightful freedom by purely moral means. Nobody really trusts men who may not speak their heart's truth; as a rule, each ministry is kept in, just to keep the opposite faction out. Each looks on its term of power as very precarious, and are more anxious to do what they do with least risk to their stability, than to do what is best. Moreover, to keep the bonds of Party-Union, every chief thinks himself bound in honour to support his subordinate, even where he disapproves of his conduct. To undertake an unjust war (against a *weak* power) is treated as a less evil than to denounce the precipitate deeds of an official "who acted to the best of his judgment." When, for the sake of Party union, all shield each even in the commission of public crime, what else does Party become but a criminal conspiracy? From the Marquis de Custine we know that the late Emperor Nicolas entitled such a Constitution as we cherish, the government of lies, fraud, and corruption.

Is it not also an odious infliction on public business, on public and private interests, for a whole ministry to go out of office, because one man's conduct is disapproved of? or, what is still worse, for Parliament to be dissolved at the will of a minister,

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because it has voted something unpalatable to him? We are so accustomed to these things, that few see their enormity and violence, and the great force which they lend to ministerial or royal intrigue. Is it a law of Nature that we must lose a good Chancellor of the Exchequer, because a Minister of War is unable to control his subordinates, or because a Premier is half-hearted? Must a Lord Chancellor leave his causes half-finished, and hand the suitors over to a successor, because the Ministry is out-voted about a Religious or Industrial Bill? If each minister were asked why he resigns, when his special department is not censured, his sincere answer would be: "We are bound together in a league of self-defence. We will not let the Parliament censure and dismiss us singly, lest we fall *really* under its control, and become responsible to it, as we pretend to be, *and the Parliamentary Government become a reality.* Therefore, as workmen 'strike' against their employer to cripple his power, so do we against the Parliament." This reply does not give the whole truth; yet it is true. In result, whatever the malversation of an office-bearer, the House cannot command redress, unless it is willing to eject a whole ministry, with the probability of getting a worse, and the contingency of convulsion, and endless damage to innocent interests. We see no cure, but in abolishing the fundamental idea of putting all public appointments into the hands of a Party.

Sudden dissolution at the will of a Minister is a violent and mischievous procedure. It punishes every M.P. severely in the purse (so long as the pernicious practice exists of allowing candidates to bear the necessary electioneering expenses), but besides, they damage public and private interests by the dropping of bills which have gone through several stages of legislation, with grave pecuniary loss to the promoters, besides the loss of time for valuable public bills. By dread of this infliction a minister constrains (what he accounts) an obstinate House. At the same time, journalists, who should be spokesmen of the national liberty, write tirades against the obstinacy of Parliament, and triumph to see it punished. The pretended necessity of a power of Dissolution, equally as of ministers sitting in Parliament, simply means, that each of the two great parties desires irresponsibility, and shuns, as ignominy, subjection to the Legislative body. No Roman consul ever was so proud.

As if to add insult to injury, the minister who startles us with a sudden dissolution, pretends dutifully to consult the national

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will on some one point. Thus at the last elections, Lord Palmerston ordered England to elect a new Parliament on the question of the Chinese war: a Parliament to rule us despotically for seven years. He had not the decorum to reopen that question before the new House, which had been largely elected to promote a promised Reform Bill. The opponents of the war dreaded, lest through fear of losing the Reform, many members should now vote to please the minister. Thus both sides were silent, though no one can prove that this House approves the war any more than the last. The hostile vote was not rescinded, but neglected. Thus the dignity of Parliament is trodden under foot.

Party government is identical with the ascendency of intrigue and secrecy. A majority of the legislators are pledged, not to pass wise and good laws, but to keep certain men *in* or *out* of office. Every cabinet is a creature of the moment, living from hand to mouth, doing, no doubt, somehow the work that it is driven to do, satisfied to provide for the day, and counting it folly to look forward more than it is obliged. Meanwhile, Parliament itself, infected by cabinet intrigue, worn out with long hours, becomes uncertain as the weather. Is not such a system a broken reed that will pierce the hand which leans on it? From day to day events painfully remind us of Adam Smith's expression, "that crafty animal, the statesman," plainly because intrigue must supplant manly openness and broad moralities wherever the noxious influence of Party prevails.

The *Westminster Review* was at its origin entitled the organ of "the philosophic Radicals," and though the great mental development in England forbids us to claim any identity of sentiment with its founders, we hold with them that English freedom should proceed from intelligence, not from blind instinct; that theory is not opposed to practice, and that a true theory is of all things most healthfully and fruitfully practical. If any theory has borne the wear of time and has seen empires rise and set, it is the eternal theory that Truth is better than Falsehood, that Man was made to be upright, that the crooked intrigue of glozing statesmen will never bring blessing to nations, and that no system which demands sophistry of officials can tend to permanent good. To proclaim the impossibility of making the machine of empires "*work*" without untruthfulness is nothing short of a moral insanity. In short, moral interests are the only true interests of a nation.

To serve God and mammon is not harder than to combine the

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duties of a minister of State and of a member of Parliament. The first duty in a deliberative body is to give sincere advice and vote accordingly. As a Privy Councillor's sworn duty to the Queen, such is the unsworn duty of an M.P. to the Parliament. To argue sophistically *there*, is a sin of deep dye, and very demoralizing. The system now accepted is of necessity a school of immorality. Every M.P is a Trustee of the nation, with the highest interests in his charge; these he is bound to guard conscientiously, and give open faithful counsel. But a Cabinet minister, sharing delicate secrets, may not tell all that he knows; his place is to obey, and the less he talks the better, when no one is so unreasonable as to expect from him frank and full truth. His business is to act, but he is too much hampered by his colleagues, or perhaps by the Crown, to allow of accepting him as a colleague in deliberation, when it is his duty not to speak his mind. As well might you ask a military subordinate to criticize his general. Immoral results cannot be avoided, when the same man is charged with incompatible duties.

The stronghold of mischief is planted in a false theory concerning an Executive. It is assumed that the Executor must *set the policy*, and its chief man have the selection of his comrades, who are his political friends and subordinates. This arrangement is, no doubt, pleasant, but not therefore necessary. Appeal is often made to the reign of our Elizabeth, as displaying continuous administrative ability; yet her ministers sitting at the same table were sometimes bitter enemies. No Premier selected a Cabinet. In old Rome the Senate *set the policy*, and required the high officers to obey it. They were often elected by aristocratic intrigue, and military disaster followed (as with us) from the incompetence and inexperience of generals. But ministers of State then no more belonged to the same party, than colonels and generals with us. All had to obey the Senate, and the Senate enforced obedience. Evidently no other relation of the Deliberative Assembly and the Executive officers is reasonable, or can in the long run be satisfactory. Then foreign powers would always deal with *the same* corporate England; now deep injustice towards weak nations and rude tribes; and difficult tangle with European powers, result from our Foreign Office falling alternately into hands which represent only half of England. In old Rome and under personal rule in England, the Executive comprized every shade of the nation;

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now with us the ablest administrators are excluded by Party animosities, and eminently valuable experienced public servants mischievously ejected. Activity and administrative skill is wanted in Executive officers, not soundness of opinion or theory, much less eloquence, fluency, or the arts of rhetoric. If our constituencies were wiser, they would refuse to elect as their representative anyone holding office under the Crown.

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OUR RELATION TO THE PRINCES OF INDIA.

From "Westminster Review," 1858, much abridged and recast to condense it.

. . . . . .

ASSUREDLY, as Englishmen, we desire and hope that English rule in India may not come to a violent end; but it is not at all too early to study how that may be averted. Our dangers must increase with the enlargement of our direct administration, also, in proportion as we reduce the empire to homogeneity, as our most sagacious Indian statesmen have vehemently warned us. A foreign rule, displacing from high posts not only all the native aristocracy but all the native talent, can be permanent only under peculiar and rare conditions, as when the military force of the rulers is overwhelmingly superior, when the talent of their race is manifestly much higher, or when nationally and individually they far excel the subject race in virtue. As to the last point, it is easy to praise Englishmen to the English. Nothing is commoner with us than to chant English uprightness, moderation, and wisdom, and to vilify the natives of India; but our most distinguished men do not speak in this tone. However we may flatter ourselves, neither the native Indians, nor (as far as we can learn) intelligent foreigners will consent to swell the chorus of praise. We have virtues which Indians in general have not, but we sell our virtue dear to them; nor can it be pretended that in talents we excel their highly gifted races. Moreover, the wider our direct rule reaches and the longer it lasts, the less will be our military superiority; nor can any English army take the field without a host of natives to minister in various capacities to its needs. Already there is danger of our suffering in England a drain of men for our Indian armies; and if we are so mad as to rest our supremacy on force alone (as so many now advise), the mere argument of safety would suggest a contraction rather than an extension of our territorial area.

Nothing can be more simple, clear, and decisive than the

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arguments of such men as Wellington, Sir Thomas Munroe, and Sir John Malcolm, which urge the importance of maintaining the native princes of India *for the sake of our own safety;* and although among officials a dangerous reaction has set in, yet of the generation not yet past, Elphinstone and Melville and General Briggs, and (we are glad to add) Lord Ellenborough are staunch to the old doctrines. We recommend our readers to the fourth and ninth Tracts of the India Reform Society for a valuable sixpennyworth on this critical subject. Sir Thomas Munroe declares that the natives of our provinces lose every quality that makes a people respectable, and, under our rule, become the most abject in India. Among all the disorders of the native States (says he) the field is open to every man to raise himself; hence among them is a spirit of emulation, of restless enterprize and independence, far preferable to the servility of our Indian subjects.

The abjectness of the British provincials is not only attested by many especial witnesses, but is even insisted on by our panegyrists, in tones which assure us that it is notorious. They say that the mass of the people under our rule are indifferent as to who are their rulers, and incapable of any national feeling: and this is made the justification of perpetuating their political degradation. The principle of our administration has been (and with small exception is still), to exclude natives from all high office. This is that which (as Sir Charles Napier emphatically remarked) debases a nation. There has never been anything like it under the Mussulman kings of India. Under Mogul princes Hindoos have frequently been prime ministers, and from very low grade men have risen into high offices. Nor in China has there been any such degradation of the natives under Tartar dynasties, but superior native talent has always been allowed to rise. Nowhere can be found a parallel to the English rule, except in the old Roman Empire, which trained the provincials into a sort of tame cattle,—industrious, thriving perhaps, rich, sensual, without public aim or spirit, without bravery, incapable as women of self-defence, and liable to be slaughtered by barbarians, the moment the regular army was withdrawn. In important moral respects, the *spirit* of our rule is vastly superior to that of Rome, yet the *form* of our rule is much worse than theirs. For *first*, many provincials were adopted into *full* Roman citizenship, and all such were at once treated in every respect as real equals to the native Romans. *Next*, the climate of India forbids our taking

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root in it, and identifying our interest with that of the natives. We never adopt India as our home; no amalgamation takes place. Mere youths, inexperienced in *English* freedom, go out from England to assume high power over Indians whose habits and language is strange to them. All these youths hope to return home in ripe manhood, with hands not empty. Subjection to the rule of youthful strangers, who will always be foreign in heart and purpose, is peculiarly degrading. In both respects the form of our despotism is more offensive to human feeling than that of the Romans.

Moreover, however good our intentions, the circumstances must thwart them. Only the higher and lucrative posts are accepted by Englishmen; the lower paid offices are filled by natives, to whom we virtually commit the enormous force of the British Executive. While our own officers were ill paid, they were corrupt and flagitious in avarice: who then can expect anything better from the Indians whom we employ? If anyone be sanguine, let him reflect on the recent revelations concerning the practice of torture as the ordinary mode in half of India for collecting revenue. This was notorious to our missionaries, notorious to our indigo planters; yet was scoffed at as a dream by our highest officials in Parliament, even when attested there by Mr Danby Seymour, an M.P., who had visited India for the very purpose of investigating its truth. Finally, after three years' delay, a Royal Commission reported that *all was true;* only the officials had been ignorant of it, to whom the police gave no information, well assured that the English Sâhib would be pleased when abundant revenue was collected, and would make no anxious inquiry into details. Yet our public and even our high officials think that it is only through these *regular channels* that truth is to be learned!*

In the affairs of Baroda and Bombay it was brought to light by General Outram, how naturally every honest free-speaking Hindoo is repelled by a bureaucrat as a rude and bad fellow, while a smooth, false, cringing man is thought loyal and trustworthy. Readers may consult the evidence given before the

* Note in 1885. — About twenty-three years ago my colleague in University College, London, Mr Goldstücke, Professor of Sanskrit, told me that he had purchased a MS. copy of Sir Charles Metcalfe's despatches, *which contained his letters to the Secret Committee.* Therein Sir Charles revealed in 1820 the whole system of torture, condemning it emphatically. Yet thirty years later our high officers were ignorant of it, and scornfully incredulous of its existence.—F.W.N.

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Lords' Committee in 1853; and more recently (1857) the pamphlet of Malcolm Lewin, late judge in Madras, who quotes *inter alia* the avowal of Mr Haliday, deputy-governor of Bengal, against our own police, whom he *calls thieves and robbers, or leagued with thieves and robbers;* and adds, that the *administration of justice is little better than a lottery.*" This may be interpreted to mean, that the English judge, who decides *without a jury*, often understands the local dialect imperfectly, is a bad discriminator of true and false witness, and is largely guided by his native clerk, ill paid, and open to bribery.

Not many years ago the *Edinburgh Review*, writing with the caution of a Whig organ when Whigs are in power, ominously remarked, that the natives of our provinces show an indifference to repelling invaders, such as never before was known under any other sway. Thus when the Sikhs invaded India in the first Punjaub war no native gave us warning where the enemy lay. The British army marched unawares almost into the lion's mouth, and had to fight the battle of Moodkee against a superior force, just when it had thrown itself to rest after an exhausting march. Who can say what result would then have followed if that *one* battle had been to us a clear defeat?

In our own time new influences have acted on India, creditable to us, yet not guaranteeing safety. Indians have been accustomed to a free press. Science and Literature steal in with English education. Chinese stagnation is impossible. Increased facility of visits to England is destined to affect the Indians powerfully. Those who come to us had endured in India to be snubbed by officials and scoffed at by youngsters. At the Cape or in Egypt they meet with quiet unconcern or respect, in England they are courted or petted. Here they learn what a land of freedom means, and that our *people* are innocent, ignorant, incredulous of their grievances, and desire full justice for them. They go back admiring England more, but less contented with their own state; perhaps more determined not to be trampled down.

Meanwhile the native Governments open a career to active and adventurous spirits, and, as Sir John Malcolm insists, *hold them in check*, and will do so "until *our impolicy* has annihilated or suffered to die of themselves those high princes and chiefs who have the hereditary attachment of millions." In the same spirit Lord Ellenborough says: "I never stood so strong with my own army as when I was surrounded with native princes. Indians like to see respect shown to these." And in recent events the above has

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been strikingly confirmed. Had there not been an Indian prince on the throne of the Nizam to resist the popular tide, the whole vast area of Hyder Abad might have overflowed with insurrection. So again Sindia and Holkar, in Central and Western India, checked the ambitious and dangerous spirits. We write these words, of course, from an English point of view; but let us try to rise higher, and ask, What is best for all? In the native rule, the natives have a free career, and the prince is despotic; true, but he is very open to our counsels, especially if we visibly rule well. If we do but rule well on our own area, our example will speak for itself, and better rule, better habits will overspread all India; but to absorb more and more territory, while the people of our own dominions are excluded from office, is a greedy infatuation. In the opinion of most Englishmen Charles II. ruled badly enough. He spent the public money on his concubines, and left his sailors unpaid; and as he also accepted a pension from the king of France, he might be compared to an Afghan prince, sustained on his throne by the Honourable East India Company.

Now suppose that in political benevolence Louis the Great had successfully invaded England and deposed our worthless king, what should we think of his ejecting all Englishmen from all high office, and giving every lucrative post in Army or State to Frenchmen, *because* our king had ruled badly? This is a precise parallel to that which a powerful clique of our officials and too many journalists urge upon us. Since such treatment would make our nation intensely hate Frenchmen, can any one think it attracts for us love from Indians? To extend the area of this system is good neither for India nor for England.

Lord Dalhousie is emphatically a type of the new school of Anglo-Indians. Under him the royalty of Oudh has been confiscated on the plea that the king ruled ill, and the royalty of Sattara also, though the king ruled excellently; Sattara without any other special reason assigned than because its revenue (argued Lord Dalhousie) would aid the British treasury! But lo! the exchequer of Sattara, full to overflowing under a native prince, has declined and come to a deficit under English rule, which is too expensive for so poor a country as India must be judged.

Lord Dalhousie, whom the Whigs kept in power for eight years, seems to have turned suddenly round, reversing the policy and principles of his distinguished predecessors in the high office of Governor-General. The smaller principalities which he has absorbed could not be formidable to us, and were our natural

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friends. Sattara was his first victim. It does not seem to have occurred to him, any more than if he had been an Austrian or a Russian, *that the people had any natural rights.* This noble lord's policy deserves ample discussion, but we wish not to lose ourselves in details, but fix the reader's attention on principles, which his dealings with Oudh makes signal. "I cannot conceive it *possible* (says he) for *any* one to dispute the policy of our taking advantage of any *just* opportunity" of confiscating native royalties; because (he adds) "independent royalties may be a source of annoyance, but can never add to the resources of the British treasury." Surely one of the worst points in our Indian system is the want of *local* treasuries. All the local rates for keeping up roads, bridges, canals, and tanks are poured away into the central treasury in Calcutta, and too often spent in war or on armaments. This most fatal mischief is arrested by the existence of independent princedoms. As to the *justice* of the noble lord's procedure and the meaning of treaties, he makes himself the judge, while he betrays his hankering after the spoil. How can he expect Indians to admit his claim, or believe that he is sincere in avowing zeal for the welfare of the people of Oudh? To his accusation that Oudh is ill-governed, the Oudh princes reply that it is governed *better than Bengal;* and that it is we who hinder them from governing better, by our interferences based on treaties violently imposed, and by our extortion of annual subsidies and forced loans; and that now we take advantage of our own wrong, making ourselves judges for our own benefit, and executors of our own sentence. Every word of this retort is but the assertion of open fact, simply undeniable. The people of Oudh (according to Bishop Heber thirty-eight years ago) were prosperous under their native rule, and said to him, "Of all calamities, heaven keep us from becoming British subjects," and in the recent war we found them our decided enemies.

On taking possession of the country, among our earliest measures "for the benefit of the people" had been the ejection of the great landlords and introducing of the village system, under which the tenants pay rent direct to the treasury. If this system is good as well as ancient, the more the pity that we have elsewhere ourselves destroyed it; but whatever its merit, the change is very violent. There are those in England who think it would be better if all the rural rents of our nobles and squires were paid into the Queen's Treasury; but what sort of commotion would the sudden ejection of a whole aristocracy into

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destitution cause in half the country? What if to this were added the ejection of the whole civil service, judges and magistrates, and all high officers of the army, and if foreigners were put into their places? In Oudh Lord Dalhousie's severity went (we understand) to the wonderful extreme of seizing the jewels of the princesses as public property. Surely so far from wondering at the revolt of Oudh, as soon as they saw their chance in the violent factions of the English themselves in Calcutta, and in our distraction by Chinese and Persian war, the wonder would be, if they had *not* revolted. The local mutiny of Sepoys could not have spread into a great war, but for intense passions previously pent up, to which our rulers were signally blind. Our Stock Exchange and its chief organ believe that Asiatics have no hearts, do not remember injuries, and may be safely trampled on.

The people of Oudh are familiar with firearms. So martial is their character, that they have long furnished to the Bengal army a formidable part of its strength. They are quite able without our aid to hold their own in any quarrel with their king or nobles, *if only we would withdraw our forces* and leave the princes exposed to their anger—a procedure which we never for a moment have contemplated. By enlisting in our army, the men of Oudh never were denationalised. They always looked to Oudh as the abode of their old age; hence by our annexation of their native soil all felt their homes invaded and their national freedom destroyed. The Court of Oudh was driven to despair. It had heard that the embassy of the Queen mother to England was futile. She had been (as if in mockery) introduced to Queen Victoria, with a prohibition of political topics! Neither Parliament nor the Law Courts would listen even to her claim of moneys lent to the East India Company, for some one had ruled that royal money was public money; therefore belonged to the occupants of power in Oudh. To despair was now joined indignation at our ingratitude for signal benefits received from them. Indeed, it is believed in Calcutta (though we cannot guarantee it as a certain fact) that the Great Mogul, titular king of Delhi (from whom the East India Company received the original diploma authorizing it to collect Indian revenue; the diploma *which legitimates its position with native Indians*) had proposed a scheme of war against the Company because of a personal grievance of his own a few years earlier; but the king of Oudh had replied he must first try peaceable protest by embassy to the home government in England. The embassy was vain, and insurrection broke out.

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Possibly, if the case of Sattara had been listened to by Parliament, when pressed by Joseph Hume, all those deplorable events might have been prevented. But Parliament was not willing to quarrel with a Whig Ministry in order to save the national rights of a little people whose name was wholly new; forgetting that in little cases of public law great principles are involved. The appeal was virtually *judicial*, and its rejection on the grounds of *policy* was a fatal injustice, fatally punished. Had Parliament considered that however convenient a particular minister may be, justice is something more than a convenience, it would have cut the chain of causes which ended in the Indian insurrection, misnamed as "the War of the Mutiny." How now may the *recurrence* of these frightful evils be prevented?

New principles are evidently needed. The Indian side of every argument must be heard, as well as that which from English channels our newspapers (generally as partizans) dish up to soothe the conscience and pamper the pride of the English people. It is but a few years since, in our direst distress, after our defeat at Chillianwallah in the second Punjaub war,—when all India might have risen against us if any one prince had stood up—the King of Oudh re-established us by his liberal supplies. Somewhat earlier, after the terrible destruction of our whole army in Câbul, it was the King of Oudh who supplied Lord Ellenborough with transport not otherwise attainable, and enabled him to push a new force into Afghanistan. Lord Dalhousie cannot have been ignorant of such services, but he looked to the future, not to the past, estimating (as he wrote) that in Oudh he should need, "*in the first instance*, four commissioners of divisions, twelve deputy commissioners of districts, eighteen assistant commissioners, eighteen extra assistants, the commissioners receiving £3300 a year each; also judicial and financial commissioners, £3900 a year." Such arguments are, no doubt, painfully weighty against justice, truth, and mercy, and are *as likely to prevail in the future as in the past*, if we shut our eyes to the deeds of the Executive.

Clearly the first change needed in our relation with the princes of India, is that *the Government must not be judge in its own quarrel to its own aggrandizement*. The cases of Sattara and Oudh do not stand alone. Space commands us to adduce only one more typical instance—that of Coorg. The rajahs of Coorg had been to us faithful and valuable allies. The last rajah got into high words with our Resident at Mysore, from whom he demanded the surrender of a fugitive, whom he alleged to be a murderer.

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When refused, he arrested a native official of our Government as a hostage, to enforce the surrender of the fugitive. This conduct was instantly accepted by us as a challenge to war. We invaded Coorg, dethroned the rajah, and *annexed his dominions.* His predecessors, our good friends and allies, had prudently invested money (about £100,000) in the Madras public debts. The last rajah, until we quarrelled with him, had received the dividends. After his deposition the capital was judged to be forfeited. To the ex-rajah's letters for fourteen years no reply was given by our Indian authorities. At last he came to England with his daughter, whom he wished to bring up as a Christian, having become a Christian himself. Queen Victoria became godmother to the young lady. But when the prince pleaded for his £100,000 he could get in England no other reply, than that *they had had no information about it from India, and therefore could take no notice of it.* Moreover, by threatening to stop his salary and starve his family at Benares, the Indian House forced him to return. Such is the rajah's story. We take it from the seventh Tract of the India Reform Society. We admit that if our Indian officials were called into public defence, they might tell facts which soften the hardships of the case; but the intense essential hardship will remain, that the Executive Government should be judge in its own quarrel, and act without public process to give solemnity and moral weight. What sort of high spirit could an English duke afford to indulge in, if some official had *power* to pick a quarrel with him, to confiscate his funded property, invade his baronial estates, and make his children outcasts or mere pensioners dependent on the good-will of invisible officials?

India needs a HIGH COURT, supreme arbiter and interpreter of Treaties and all other documents; a Court before which both the Government and the Princes should be able to sue and liable to be sued, publicly; and, except by verdict of the Court, the Government should have no more power to touch a prince's inheritance than that of an English duke.

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DELIBERATIONS BEFORE WAR.

At the Opening of the Franco-Sardinian War against Austria.

From the "London University Magazine," June 1859.

THE question of War is generally looked at from one of two points of view, which we may call the Moral and the International. The Moralist considers whether a war be just or unjust, and compares the prosecutor of an unjust war to a robber who makes lawless attack or resistance, his opponent to the officer who enforces the law. In this view the two parties are not co-ordinate. But the international Jurist, presuming that each side is sure to think itself right, and knowing that good men are fighting on each side, considers by what means the necessary evils of such a state of things may be brought to their minimum. As there is no valid or acknowledged tribunal to determine which side is just, which unjust, he treats the two parties as co-ordinate, calls them *belligerents*, and looks only to the ostensible marks which make a war "lawful," that is to say, *regular*. Certain forms are defined, as necessary preliminaries, and certain rights are reserved as sacred, even in the midst of hostilities.

Each of these modes of looking at the subject is right and necessary, although we must lament that the second is apt to present itself so exclusively to every great power, that the moral certainty that one side at least is criminal, is apt to be overlooked. But *besides* these two points of view, there is a third (which may be called National, rather than International), that seems hardly to be considered at all; yet it is of the utmost moment to a free State, like England, the government of which (we are plainly told by Lord Grey and other statesmen) is (and must be!) a government of Party. Inasmuch as the whole nation is implicated in a war, when once it is undertaken,—inasmuch as we all have the same national disgrace, if it is unjust; the same suffering, if it is tedious; the same loss, if it is expensive;—it is an obvious principle of justice, equally as of expediency, that

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every side of the nation should be heard to plead against it by its legitimate representatives. Even under the strongest despotism, if it have the least pretensions to good order, the king or emperor hears advice from opposite sides impartially,—a rule so vehemently dictated by prudence, that it is seldom violated except by the wantonness of one who is half-mad, and drunken with unchecked power. The most warlike imperial potentates habitually take advice of their privy council, and indeed often of their greater council, or senate, before they voluntarily engage in a war. Such a privy council, equally as the senate, uniformly contains men of opposite tendencies and parties, often habitual opponents and perhaps bitter enemies. Neither the Emperor of Russia or of Austria, or the Sultan of Turkey, nor any of our Edwards and Henries, any more than an old king of Etruria or of Rome, would ever make war without hearing the free opinions of the opposite parties or factions which formed the active political world of the State. At the council table of our Elizabeth, there often sat together men who literally thirsted for one another's blood; and if one of them gave to the Queen pernicious advice, another was ready to expose and refute it on the spot. Although a council may be secret, it is not necessarily one-sided: and those powers alone are *judicious* in their wars (of their *justice* nothing must be here said) who carefully secure that both sides of a deliberation shall be sifted by the keenness of political rivals. Justice towards the foreigner is a separate point; but justice towards our own people is obviously violated, when they are dragged into a war without the pleas against it being evenly heard. It is in the nature of collective action that a majority, at least if large, must act for the whole; but this proceeds on the presumption that free deliberation has preceded. For though the minority cannot ultimately refuse to be guided by the majority (estimated as the constitution may dictate), yet, at least as much as a criminal at the bar of justice, the *plea* of innocent men must be *listened to* and pondered, before they are sentenced. If fathers or sons are to be dragged from their families for the stern work of war; if the material resources of the kingdom are to be drained for some foreign object, nay, and the whole existence of the State brought into hazard; the Queen is bound fully to hear the voice of those who may happen to think the war unjust and pernicious, before she sanctions it.

It is the singular disgrace of modern England to have allowed the solemn responsibility of war to be tampered with by the arbi-

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trary judgment of executive officers; who decide on deeds of battle and slaughter, involving the allegiance and permanent state of nations, without a single sacred form which shall bind the adviser to conscientious scrupulosity, or such publicity as shall make it notorious how and why each man voted. The nation which boasts of its jury; which will not allow pecuniary penalties to be imposed, much less a life to be taken, without the unanimous verdict of twelve men, solemnly sworn to give a verdict according to the evidence of Right; the nation which would be scandalized and indignant, if a judge were to avow that he gave his award according to the convenience of those in power, and not according to the rights of the case; this same nation permits war to be made, lives by the twenty thousand or fifty thousand to be sacrificed, provinces to be confiscated and permanent empire over foreign subjects established, at the secret advice of a cabinet, *all of one party, acting collectively for party-objects*, no one outside knowing how each has voted: and this, when its members from time to time plainly avow that to speak publicly according to their conscience in such matters would be foppish absurdity, and that of course they go with their Party. Lord Palmerston lately went farther;—and no one, when Parliament met, rebuked him, as far as we are aware. When a vote of the Commons had condemned his Chinese hostilities, he punished them by dismissal, and then publicly ridiculed the idea that Parliament ought to fancy that it met "as if in a jury-box to vote on the Right and the Wrong, and not, to vote which statesman should guide the destinies of England." How dead must Cabinets have become to the profound guilt of an unjust war, before a Prime Minister could have ventured on thus publicly outraging the moral sense of the nation! How accustomed to contumelious contempt from the secret cabinets must Parliament be, when it can endure to be told that each member's vote concerning a war is to be decided, *not* by the rights of the millions at stake in it, but by considering which of two or three despots they had better elect!

And what is the explanation of this enormity, in the nation which thinks itself the freest and justest in the world? We believe it mainly springs out of the anomaly of the East Indian empire: for the evil practice has grown stronger and stronger with that empire, until, in the last twenty years, it has attained a development wholly unprecedented.

From the year 1784, when the Board of Control was established, the power of the East India Directors to declare war and peace

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was made merely nominal; but the nominal rights reserved for the Directors served as a screen to the omnipotent ministry behind them. The Directors, by legal fiction, appointed the Governor-General, who had the power of war and peace; but the appointment was subject to the approval of the crown: and as the crown had power to "*alter* or *amend* or *keep back* the dispatches of the Directors," and in urgent cases, to transmit orders to any functionary in India *without the concurrence* of the Directors,—nay and without the *knowledge* of any but those called the Secret Committee,—it would have been simply absurd in the Directors to fight against the crown as to the appointment of the Governor-General. In point of fact, the Prime Minister appointed him, as effectually as by the *congé d'élire* he appoints the Bishops. The orders to make or not to make war, went out direct from the Board of Control, that is, really from the ministry in Downing Street. Two, or even one resolute man had power to make war without check; not only when, by reason of the distance from England, the excuse could be made, that there was no time to take advice, but even when full debate in England was easily possible. But let us pass to recent times. In the virtuous days of the first Reform Act, when an excellently intended Indian Bill was passed, under that pure-minded sagacious governor Lord William Bentinck we began to believe in a coming millennium for India. But this very nobleman had already been ordered to send a spy to Afghanistan (Sir Alexander Burnes), who in 1832 explored the military opportunities with a view to that notoriously unjust and disastrous invasion which a few years later Lord Auckland was commanded to execute, It does not suit our purpose to dwell on the pretences of this war. The main argument used for it in Parliament by its chief advocate Lord Palmerston, was, that it was better that *we* than the Emperor of *Russia* should hold in our hands the keys of Asia. So we stole the keys, for fear he should steal them! But let that pass. What we here desire to insist on, is,—that the war became a terrible reality, was supported by a noble army from England, besides the properly Indian troops, — that it cost us the unprecedented butchery of the entire army of occupation,* added twenty-three millions sterling to the Indian debt, left the treasury of India in a permanent deficit, drew after it

* But for this terrible massacre, the English armies might have tried to occupy Bokhara also, *on the other side* of the Hindoo Koosh; for Captains Stodhart and Conollay were sent thither as spies, and the ministerial organs blustered that the Russians were *intriguing* in Bokhara. In this chase of Russian intrigue over all Asia, a severe fall was certain to be at last encoun-

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a belief that we might be expelled from India as effectually as from Afghanistan, and gave a vehement excitement to the late Indian insurrection. All this was brought about, the fair fame of England stained, her blood and treasure wasted, the foundation laid for miserable complications in the future, at the *Secret Order* of two or three *executive* officers of the Queen, without previous debate in Parliament! After the crime was committed and its disastrous fruits reaped, then at length Parliament debated; but, finding the mischief accomplished, of course did nothing. In the way of routine, they *could* do nothing but merely eject the entire ministry; without any permanent stigma on guilty individuals, who, under the shield of a secret Cabinet, can never be legally ascertained.

While this great war was raging, the same ministers simultaneously, and without previous debate in Parliament, undertook two other wars of the greatest scale, one of which had all but precipitated us into a war with France. This was the Syrian war of 1840, in which we expelled the Pasha of Egypt from the entire coast of Syria, and virtually restored all Syria to the Sultan. The treaty by which we took on ourselves this dangerous and highly questionable office, was signed without cognizance of Parliament; and the first public revelation of it (if we remember) was by the newspaper reports of a naval action. The ferment in France was universal and very violent: the ministry of Thiers would probably have declared war on us; but Louis Philippe was too prudent to do it without the aid of Russia: he dismissed the ministry and held back the nation. Happily, the war was brought to a close before there was time for a coalition, and France grudgingly submitted to events. The argument used to justify our intervention to aid the Sultan against his subjects, was, that if we did not aid him, Russia would. Such is the logic that satisfies a secret Cabinet.

The simultaneous Chinese war was fought in vengeance for the seizure of smuggled opium. We do not enter into the details of right, but only into those of form. The English representative (Captain Elliot), when the opium was seized, *gave a receipt for it to the smugglers as delivered over to the British Government!* As he identified himself with the smugglers, the Chinese authorities temporarily imprisoned him, and our Cabinet made war on them for

tered. But a minister, equally as an Emperor, when shut up to his own counsels, is easily intoxicated with success. Stodhart and Conollay were killed as spies. Burnes's better luck was but ill-luck.

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the insult offered to Queen Victoria. Yet Captain Elliot appears to have been sincerely ashamed of the dirty work required of him. The great war thus undertaken at the other end of the world was strictly a British war, to defend British commerce; the East India Company having been allowed no commerce since 1833: yet this also was kept in the hand of the executive government, because the public had become accustomed to apathy concerning Asiatic wars.

The next great *coup d'état* ventured on by the same ministers (Russell and Palmerston) was, to crush liberty in Portugal (1847), where the Whig party, incensed at the Queen's violations of the constitution, took arms to compel her to legality, and were victorious, until by the intervention of the British fleet they were reduced, and liberty cast helpless at the feet of the Queen.* This also was done without the cognizance of the British Parliament; and was apologised for in whispers, that the ministry did not like the dirty work, but, *as the heir of Portugal was a Coburg*, they could not help it; besides, the Spaniards and French would have interfered, if we had not; and would have treated the poor Portuguese with less consideration than we. Are these the arguments which satisfy secret Cabinets?

But we are forgetting the blockade of Athens! One word must suffice. Athens was blockaded *first*, and a hundred times the value of Don Pacifico's debt was spent by ourselves and levied on Greece; a great debate in Parliament took place *afterwards!*

A more terrible affair of debt was that of Burma. Two ship-captains complained in Calcutta that they had been put to undue expenses and forfeits in Rangoon. Lord Dalhousie reduced their demands to under a thousand pounds, and sent Commodore Lambert (*with a strong squadron*) to inquire into the facts and demand payment; but ordered him, even if flatly refused, *on no account to enter on hostilities.* The Commodore reversed his instructions as completely as if he had had private assurance that they were only

* This shameful deed, perpetrated by Russell and Palmerston (apparently) to avoid displeasing the Court, was what ruined their moral courage in the two next years towards the three despots who overthrew law and right in Hungary and Rome. No English ministers ever lost more splendid opportunities of establishing rightful liberty on the solid base of nationality, without war, by merely acknowledging the right cause, and holding out to it greeting and equal neutrality, than did these recreant Whigs in 1848-49. We do not care to ask how the *Court* was minded. The nation was, then as always, on the side of right and liberty, and would have carried the ministers through.

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meant as papers to lay before Parliament. He did *not* inquire, and did *not* ask for the money; but picked a new quarrel of his own on totally different grounds, and bombarded Rangoon with great slaughter. Lord Dalhousie mildly rebuked him, but confirmed all his acts, and took up the war. The province of Pegu, long since coveted by officials, was added to the empire, and Commodore Lambert received a blue ribbon from Queen Victoria at the advice of Lord Aberdeen. Parliament was ignored by both ministries.

The Russian war followed, into which we were "drifted" by the Secret Correspondence and the battle of Sinope. If that correspondence had been at once laid before Parliament, the national indignation would have undeceived the Emperor Nicolas as to the temper of the English people. But by cringing and flattery, and making Nicolas's avowed accomplice, Austria, mediator and referee, Lord Aberdeen persuaded the Russian Emperor that our Cabinet was playing his game. They did their utmost to stop debate in Parliament, lest any words too spirited might be spoken; till at length, making sure of our neutrality, the Emperor plunged on into a position from which pride forbade him to withdraw till compelled. There were undoubtedly *at last* great debates in Parliament; and the war was not ultimately undertaken until the whole nation felt our honour had become inextricably committed. But if debate on the Secret Correspondence had taken place one year earlier; if the ministry had been as anxious to inform and elicit public opinion, as it was agonizing in its efforts to forbid debate and withhold facts; it is certain that the war would have been put off, and it is possible that it might have been wholly averted.

Scarcely was this war ended, when two more wars were undertaken, each secret and unconstitutional, besides all their other irregularities. A hostile correspondence was carried on between Lord Clarendon (then Foreign Secretary,—*not* President of the Board of Control), and the Court of Persia; in consequence of which Lord Palmerston commanded war against Persia to be proclaimed *at Bombay!* This little circumstance (insignificant as it may seem) serves as a clue, how the East India Company has been made the blind, to enable the ministry to use the vast military and naval force of England in whatever cause they pleased, without consulting Parliament. War was not proclaimed in London, that they might the better pretend it was no business of ours, Asiatic interests being too profound (of course) for a stupid

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English Parliament to understand. A manifesto from the Persian Court appeared in some of our newspapers, which stated—that the King's government sent a plenipotentiary to Constantinople to confer with the English ambassador, and by the electric telegraph with the Court of St James's;—that on his arrival, totally unforeseen demands were made on him, for which of course he had no instructions;—that he asked and obtained a fixed number of days for getting new instructions from his Court, and sent off a messenger instantly; but before half the time was expired, before it was physically possible for the messenger to return, Bushire was already assaulted and war proclaimed. Not only was all done without the cognizance of Parliament, but we do not know that anyone has inquired in Parliament whether the Persian manifesto was genuine and was true. Of course *we* cannot guarantee it. But our readers, with us, must have read the narrative of the British Envoy at Bushire, which boasted that up to the last moment he kept the Persian authorities in ignorance that any war was intended; until, when the fleet from Bombay was almost in sight, he escaped secretly, got on board, sent in the declaration of war, and gave orders to the admiral to commence the attack. We had thought all this piratical; but secret cabinets think otherwise, and Parliament is too busy to examine *events that are past.*

The second Chinese war took a different turn. It was commenced without leave of Parliament, and condemned by Parliament. Thereupon the minister punished the House by dissolution,—which is like *fining* each member (on an average) six or eight hundred pounds, and representatives of powerful constituencies twice or thrice as much, even if re-elected. A majority of the new House was elected to promote Reform of Parliament; and Lord Palmerston, by suddenly avowing himself a Reformer, averted all further mention of the Chinese war. He knew that many Members would not dare to eject him for an Asiatic *accomplished fact*, if they had to eject with him the chances of the promised Reform: and that the sturdier haters of the Chinese war would fear to move, lest the votes of the others should turn the scale in his favour.

If Earl Grey is right, and a Cabinet must be a *party*, this is a decisive, irrefragable reason why a Cabinet must NEVER exercise the function of deciding on Peace and War. The recent overthrow of the East India Company has swept away all the shams which have hidden from England that the ministry in Downing

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Street worked the Indian puppet. *Now* is the critical time, at which Parliament should claim that public debate shall *precede* all voluntary hostilities, small or great. The aspect of things, while we write, is most threatening. The ministry has put forth a declaration of neutrality, yet is reported in every newspaper that we take up to be acting as if in convulsive preparation for a war against France. This may prove not to be a strictly correct report; but the itch manifested by the ministry to seize some pretext for shielding Austria from the insurrections of the nations which she has perfidiously crushed,—and perhaps striking some *coup de main* against France, in hope that English pride will in every case rally to the English flag,—seem to make it incumbent on the nation, and on Parliament as soon as it meets, to protest in the most solemn way, that henceforth no blow in war shall be struck, until the voice of Parliament has permitted and commanded it.

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THE ETHICS OF WAR.—1860.

From "Westminster Review."

THE history of ethics is, we believe, very well understood by the few who have taken pains to study it closely; nor do we suppose that it contains any paradox to such. But, on a superficial view it is highly paradoxical and full of inconsistencies. On the one hand, it appears that the earliest knowledge attained by mankind, is an acquaintance with moral right. The child, or at least the youth, seems to know it so instinctively, as, from the freshness of his sense, to give truer verdicts on many subjects than experienced men. Barbarians, to the astonishment sometimes of our churchmen, manifest that we have very little to teach them of that knowledge of which we may have been too ready to think ourselves the privileged depositaries. On second thoughts, we see not only how it is, but why it is thus; that human society would never be able to coalesce at all, unless moral feeling were universal and instinctive; an almost immediate consequence of which is, the desire of public rule, enforcing justice; and since all the sciences of observation and experience presuppose civilized life, they are naturally posterior to that knowledge which is a previous condition of civil union.

Nevertheless one branch of ethics which touches domestic life most closely, and as to which we need in very early youth firm and positive principles, is a marked exception; so that in it we find an avowed and sharp contrast between barbarian and civilized ethics. Of course we refer to the relations of the sexes, and the approval of polygamy and concubinage among barbarians. Scarcely have we explained this to ourselves, when we are mortified to discover that in the midst of Christianity and civilization, no sooner do men throw off reverence for traditional precepts, than an alarming fraction of them gravitates towards an immorality of sentiment on this subject far baser than that of barbarians.

When we pass from social to national ethics we find paradoxes still greater. In many ages of the world the very nations who seem most scrupulously virtuous in their internal relations, are

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judged by their neighbours outside * to be proportionably unjust and violent in their foreign behaviour; and yet seem not to know it, but generally to have a firm belief that they are acting a rightful, reasonable, and necessary part, when their conduct, *if* it be wrong, is nothing short of murder, robbery, and other high crimes on a great scale. Historians have remarked, that the foreign dependencies of free nations are ruled more oppressively than those of arbitrary monarchs, and that where both possess plantations cultivated by slaves, the slaves of the freer people are treated more rigorously and have less chance of rising out of their degradation. Again and again is the sad fact displayed, that when by means of free and just institutions a nation has become inwardly strong, it rarely shows any desire that its neighbours should share like advantages, but perhaps superciliously alleges that they are not fit for freedom. It is apparently as ready to assail national existence as if it did not know the dearness of nationality; in short, it is hard to say that the wars of free states have been entered into at all more scrupulously and justly than those of despots, or that their successes have been less greedy and less ferocious.

These and such like phenomena may not only be explained, but *so* explained as to blunt the edge of our indignation, though it cannot abate our sorrow. But while such facts as we have named may seem casual or transitory, a deeper and more permanent paradox remains, that, according to the current morality of Christendom, two nations may be engaged in deadly struggle and *neither be in the wrong*. While inflicting mutual miseries, of which the deaths and wounds in battle are but a small fraction, both sides may be virtuous and feel reciprocal esteem, so that by a few strokes of the pen passing between two ambitious and narrow-hearted men, the armies which yesterday put forth all the appliances of force and craft and science for mutual destruction, to-day embrace as friends, and honour the hostility which has distressed them. This paradox also, no doubt, can be explained, but to explain it falls short of satisfying the judgment. To say

* The Athenian ambassadors in Thucydides (v. 105) say straight out to the Melian Senate: "Among themselves, and in regard to their native institutions, the Lacedæmonians for the most part behave very virtuously; but towards all others they, most signally of all men whom we know, account what is pleasant honourable, and what is convenient just." Within twenty years all Greece confessed the truth of this harsh statement.

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that in a war both sides are right, is to overthrow the only moral theory on which, as far as we know, war has ever been defended, viz., by comparing it to necessary self-defence against a ruffian, or to police procedure against a criminal, which is justified in civil life. This theory essentially supposes that one side is guilty or unjust. To treat combatants on both sides as morally on a par, and both justified by the law of "discipline;" not only entirely overthrows this analogy, but admits the atrocious moral heresy that the organic centre of a State called "the Government," can, at its own pleasure and its own sole responsibility, liberate its citizens from human duties towards the citizens of other States. As in certain religions, or religious orders, it is supposed that the high priest or grand master may claim and receive absolute obedience, concentrating in himself all the moral responsibility, so that the votaries are conscientiously bound to obey whatever deed of ferocity he may enjoin, and are acquitted of blame by the fact of his command; such, according to the appearance of things, and (it would seem) according to the creed of Christendom, is the relation of every dutiful subject towards his "Government." Two armies meet for mutual slaughter. Neither of the two asks, or may ask, the justice of the quarrel, the rightfulness of the end sought, or of the means used. Their respective "Governments" take the responsibility of this; and though of the two it will be admitted that one or other may be in the wrong, yet the soldiers on both sides are held to be acquitted; and that, even if they happen to believe their Government to be perpetrating high-handed crime.

In such a state of public facts, and such a theory or no-theory to justify them, no one can wonder at the rise and progress of an opinion that "war is essentially an immoral state." This opinion exists in minds wholly opposed, and with results wholly opposite: the one class condemning war *in toto* for its immorality, the other always justifying it *in detail* on the ground of "necessity," yet pleading its essential immorality to defend every procedure in it which is most unscrupulous but happens just then to be convenient. To the former class of course the Quakers belong. Once perhaps scarcely any but actual members of the Quaker body went all lengths in the absolute condemnation of war; but now many who are not Quakers may be heard to use language similar or identical: and we think the grounds of this opinion have somewhat shifted since first the Quakers adopted and systematised it. Originally it may have been suggested by a

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severe literalism in the interpretation of a single Scripture text; but the Quakers have shown in a thousand ways that whenever they seize a broad principle, they can overleap special texts as decisively as the boldest and freest of Christians. In fact, so strongly marked has been their unflinching devotedness to broad and even extreme principles, that in the few cases where they may seem to press a text slavishly, one may rather believe that the letter to which they appeal is their servant and tool, than that it is their master. Nor is it by quoting "Resist not evil," that they make converts to their peculiar view of war, but by displaying the want of moral basis to justify the horrors in which wars abound. Indeed, to the policeman no Quaker has any real opposition. If they do not cry aloud their approval of his proceedings, one still cannot doubt that they approve in their hearts: and whenever an attempt is made to argue with them, they deny the *fact*, that war is an operation of international police, inasmuch as there is no court, no magistrate, no public trial, no verdict; nor is there any ostensible and intelligible mark by which bystanders can learn which is the culprit and which is the officer. The total mass of those who are called the "peace party" in England is not great; but unhappily, while they are *not* numerically strong enough so to enforce preventive justice that war may be avoidable, they *are* morally powerful to divert nearly all the zeal and energy which might else effect very sensible improvements in martial law and in the forms of declaring war, and make hasty and unjust war much more difficult.

Looking simply to what *is*, and not to what we *wish* to be, it seems inevitable to concede to the Quaker that war is not a process of police. Nations are mutually in the condition of a community in which there is no magistrate, but every man wears arms and revenges his own wrongs at his own instinct, if he is strong enough; or if he is not, then associates some coadjutor to waylay and punish the offender. Then naturally the little and the weak are prudentially just, but the strong and swaggering can afford to use more latitude; since it suffices for them to be only not *so* unscrupulous as to bring about a coalition that will overpower them. All must entitle such a state of things *anarchy;* the essence of which is that force is used for private ends, without the intervention of those forms which experience and reason dictate as most efficacious for maintaining public law. If society could be transported back to anarchical times, or rather, if we ourselves could be transported to the backwoods of America or

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the inmost wilds of Australia, where from the extreme thinness of population judicial institutions were as yet utterly inefficacious—terrible as would be the calamity to our sentiment, we could not embrace the Quaker doctrine of going unarmed. To display a peaceable, or we might call it a sheepish deportment, in the presence of wolves, would stimulate wolfish appetite and exasperate unscrupulous ferocity, with evils immensely worse than those which result from sturdy and perpetual hostilities. Equally, or indeed much more, do we maintain that for a rich, industrious nation like England, to proclaim that she does not fight however cruelly attacked, would involve to herself and to the morality of the world mischiefs a hundredfold worse than those of our stubbornest wars. Our readers therefore must not suppose that we are espousing the Quaker side in its essential points; but unless the thoughtful part of the nation probes this question to the bottom, conceding to the Quaker and to the peace party all that is true in their view, unscrupulous men of the extreme opposite class have the game in their own hands; and the nation drifting without moral guidance, learning nothing from past calamities, must expect, like all other great empires which have done the same, to fall at last into irreparable disaster. Precisely because we stand on an eminence, we encounter immensely more risk than those who have no heterogeneous and distant dependencies.

Hitherto the ministers of religion, equally with the literary men and the poets, have virtually blown the flames of war by teaching, directly or indirectly, that it is the duty of "subjects" to fight in any or every cause which their "Governments" may prescribe. Although, until a great revolution of mind has taken place, neither Church nor State can organize international rule in place of anarchy, this is only a stronger reason why those who alone can promote a revolution of mind should beware of misdirecting their moral influence. Let us for a moment consider what the doctrine means. War, as it exists, is at its best comparable to a just process of "Lynch Law," or to the just resistance of a felonious attack; and at its worst to the ferocious struggle of two savages, alike regardless of justice and of formal legality. Imagine that in a state of anarchy the heads of two families have fallen into feud; and that each commands his younger kinsfolk to aid him, and to kill as many as they are able of the other family. It is probable that they would zealously obey; nor could we severely blame them; but might merely remark, that these poor ignorant

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people know no higher law than that of obeying their chief, though he bid them to rob and murder. But what should we think, if a European missionary, whose sacred character enabled him to go safely to the houses of *both* the combatants, were actively to exhort the young men of *each* to obey their chief in such matters; and were to preach publicly, that in every case of deadly quarrel it behoved the younger members of a family to abstain from inquiring into the justice of the case, but, be it just or unjust, to prosecute every feud which their chief might take up? Should we not feel it hard to moderate indignation against such a moral teacher? It would be manifest to us, that if the chief were under the necessity of winning the approval and sanction of his own kinsfolk, this would at least put some little more of reason and moderation into his projects of attack. More peculiarly, if from the paucity of powerful leaders there were little restraint on him from without, while from the number and strength of his followers he might have great restraint from within, it would seem the height of imprudence, almost of malignity, to inculcate that the question of entering on feuds, and how far they are to be pushed, ought to rest with him alone. We are not speaking in dark parables; for the application of this to national wars is very evident. If the central authority, whatever its nature, which decides on war, is merely politically dominant, but has no high moral superiority to the cultivated part of the nation; and its decisions are not made under such judicial public forms, as alone carry with them the ostensible mark of conscientious justice; on what moral grounds can the community be acquitted of guilt, if it perpetrate hostilities in mere obedience to command? Surely all pretence of morality vanishes, if on the one hand the people are exempted from moral responsibility while obeying the command to kill and plunder, and on the other no such scrupulous forms have been used which any one could imagine would justify the hanging of a notorious murderer or the fining of a notorious swindler. We are often indignant with Chinese morality for having a different law for the native and for the foreigner; but what else is our own practice? If a murder has been committed openly among ourselves, the murderer may not be hanged as soon as caught, but a public trial is enforced; his accusers and his jury are *put on oath*, and he is allowed to *defend himself*. If, on the contrary, a Chinese officer has given some offence to an English officer, war is forthwith begun, not once nor twice only; and English sailors are bid to commit the extreme of violence, without

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the intervention of a single sacred form, which may save their consciences from the sense of being pirates and murderers. Under these circumstances the introduction of religion into war is apt to cause only a greater revulsion of feeling still, by suggesting that it adds hypocrisy to lawlessness, and endeavours to make or represent the highest and purest of beings our accomplice. To the Englishman the late Emperor Nicolas's Te Deum bears this aspect; but what else to the Russian did Lord John Russell's appeal to God for the Right seem to be? Neither side has *ostensibly* taken care to be on the side of God, yet each side makes the assumption that God is with it, when He cannot be with both. No cause has more powerfully tended to make States irreligious, than the natural disgust felt by public men when the most sacred name is thus manifestly (on one or both sides) in the worst sense "taken in vain;" and out of this irreligion of States another long train of evils has flowed.

With many persons the uneasy feelings which such considerations inspire, are set aside by the flattering though true remark, that "war has been gradually becoming milder and less undiscriminating." On this we have more to say; but first we desire to mark sharply, what is the nature of the ameliorations which alone have been attempted or pretended. The "laws of war," so much talked of, absolutely leave the question of justice untouched; they accept war as a *fact*, and dictate merely the modes of declaring and of carrying on the war. This is exactly what was probably often done in detail by a Christian priest after the overthrow of the western Roman empire. Hopeless of inspiring in the turbulent barons around him any care for either the forms or the substance of justice, he may have striven to make their fightings, if fight they must, as little atrocious as circumstances allowed. The only laws he would have a chance of recommending, are those of honour and chivalry: first, as to declaring war:—not to make your attack suddenly, before the other party is forewarned of your hostility, but give previous notice, so that your war may not wear the aspect of assassination. Next, as to the mode of the war:—not to attack non-belligerents, as women and children; not to do permanent damage *wantonly*, as cutting down fruit trees where other timber is to be had; not to waste the fields and starve a whole population *without urgent cause:* to treat as non-belligerent all disabled men, whether disabled by extreme age or by wounds. Out of the last principle rises the duty, not only of giving

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quarter to the wounded in war, but of sparing the life of all who surrender: since, by binding them, they are rendered non-belligerent. Yet there also *urgent cause* may justify slaughtering prisoners, as by Henry V. after the battle of Agincourt, if they are too numerous to keep and their escape may be dangerous. Thirdly, to respect a flag of truce and the sacred heralds, and observe all compacts made during the truce for the conduct of the war.

Such precepts fundamentally commended themselves (with limited exceptions) to Hector and Achilles; so little has Christendom to boast in them. The great development of the principles with us has depended on two changes internal to society. On the one hand a very large portion of the *men* of every nation has become as completely non-belligerent as the women; on the other, the extinction of slavery has destroyed the pecuniary value of captives of war. The result of these changes is immense, and we must not be supposed to underrate them. We must dwell on them for a moment.

The barbarous assumption always was, that as soon as a state of war has commenced (never mind how or why), either side had a right to kill the other, and therefore had an absolute right to the persons and property of the other, if they could be seized by violence or stealth. Hence, if a warrior spared a life which he might have taken, that life becoming his, it was open to him to sell the captive as a slave, or to accept ransom. Accordingly to give quarter to an enemy in battle, was accounted a deed of avarice or of prudence, rather than of mercy. An immense impetus is given to war, where an invading army is permitted to plunder at pleasure, and where the whole possessions of the country are esteemed the natural right of the successful invader; and still more, when the bodies of the inhabitants are reckoned as nearly the most valuable property. Even a poor people affords plenty of plunder, when they themselves can be sold for slaves. While this idea was dominant, every war had all the atrocity of a slave-hunt; and every man in the country became a belligerent when exposed to calamity so horrible. Hence also arose the terrific scenes which occur in the pages of classical history; when husbands kill their wives and children, and throw themselves and their property into a burning pile, rather than fall into the hands of the conqueror. Cruelty and atrocity, deadly feuds of race and even of border cities, were exasperated to a degree now scarcely imaginable. Where belligerent states were

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conscious of kindred origin, there was an incipient amelioration * from their being ashamed to sell captives of war, or from believing that the surrounding states would not buy. No cause so sustained the bitterness of the quarrel between Christendom and Islam, as the reduction of captive Christians to slavery by the Saracen and afterwards by the Algerine corsairs, long after the states of Christendom in their mutual wars had abandoned even the idea of private ransom for captives. However, the overthrow of domestic slavery was but one of several changes simultaneously operating. The development of war as a peculiar art, the rise of Italian and Swiss mercenary troops, the establishment of standing armies, on the one hand led to professional sympathy between adverse ranks, and on the other converted the masses of the people into non-belligerents. Hence not only the right of quarter to those who surrender, and gentler and honourable treatment of prisoners of war, but also the desire not to exasperate the peasants of a country into enemies, but, by limiting the demands made upon them, prevent their despair.

Great inconsistencies still remain in practical vigour, which are not pointed at and forced upon attention as they deserve. The different treatment which property on land and property at sea receives during war, is perhaps the most prominent of these inconsistencies. From time to time the question is plainly asked, Why is the property of peaceable traders to be confiscated at sea, when the same enemy would have refrained from touching them on land? The answer is, unfortunately, an excellent one in its way: "Because the distinction is found convenient to powerful belligerents." On land, an invader who has to meet an enemy's army in its own home, has difficulty to feed himself, if the peasants are bitterly hostile; and if he can induce them to furnish supplies by some moderate compulsion short of robbery, he much facilitates his operations. But at sea, he carries his supplies with him, and is never dependent on the good will of the merchants whom he despoils. Moral reasoning has no chance against such arguments; and, unhappily, England, by reason of her power at sea, has had the chief interest in upheld-

* To the opposite effect Tacitus observes, concerning the battle of Bedriacum, in which the army of Otho was defeated by the Vitellians (Hist. ii. 44):—"There was the more slaughter, because in a civil war captives are not converted into plunder." The brutal soldiers had no pecuniary motive for sparing life. But the more or less of slaughter on the field is not that on which the ferocity and miseries of war turn.

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ing the practice of plundering an enemy's merchant-vessels. Even the rights of neutrals have been dealt with very unscrupulously; and whatever recent changes have been made for the better, have risen, since our second American war, out of the notorious determination of the great republic to uphold at any cost her own view of her neutral rights. In the late Russian war our attacks on the innocent Finns, confiscation of cargoes of salt, dashing exploits to capture some poor little vessel, or burn marine stores in private yards, were certainly very ignoble to us. The odium was great, the gain contemptible; and it would be well, if the retrospect might at length induce an abandonment of the principle involved.

The Finns, pressed down by Russia, may have been in heart our friends; but that goes for nothing. In fact, the moment a neutral is overpowered by our enemy, he is treated as himself our enemy. No more striking illustration of the rights allowed to *weak* neutrals is needed, than the defence which is made of our two attacks on Copenhagen. In 1801, Russia, Sweden, and Denmark had joined in an "armed neutrality," to maintain their rights at sea, as "neutrals," against the pretentions of England, who for the convenience of her war with France crippled their commerce. To break this northern alliance, "which threatened our naval supremacy,"* Lord Nelson was sent to destroy the Danish fleet. Seventeen sail were burned, sunk, or captured by him. The Emperor Paul was at the same time assassinated, and the coalition dissolved itself. Six years later—

"The terrible chastisement which the Danes had received at the hands of Lord Nelson had not promoted any friendly feeling towards England. . . . It was known to our cabinet that there had been secret articles to the peace of Tilsit."

And it was believed that Russia had there consented to the conquest of Denmark by France.

"There was no army in Denmark capable of resisting the French forces. If we could have relied on the friendship of the Danes, we could not rely on their weakness. In short, if we did not make sure of the Danish fleet, Bonaparte was sure to get it. The great law of nature, the instinct of self-preservation, dictated the step which we took. Our Government rushed to its object without a declaration of

* As far as I am able to learn, the confederacy demanded no neutral rights beyond what we have now freely conceded by the act of Lord Clarendon, at Paris, without even a debate in Parliament.—F. W. N. (2nd ed.)

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war against Denmark, because such a declaration would have defeated the object," &c.—*MacFarlane's Hist. of Eng.*

Thus Denmark is *suspected* of being angry that we destroyed her fleet six years before; and is *convicted* of two offences, that of having built a new fleet, and that of being weak by land. Our cabinet thinks she is certain to be overpowered by her enemy; therefore, to anticipate him, we come down upon her with sudden and overwhelming attack ourselves.

Far more afflicting was the case of Genoa: let Dr Arnold* tell the story. In the autumn of 1799 the Austrians had driven the French out of Lombardy and Piedmont. The remains of the French force clung to Italy only by the Riviera of Genoa. Their general, Massena, hopeless of relief till the following spring, fortified himself within the lines of the Genoese towers; and the Austrians, not daring to attack him there, sought only to reduce him by famine. Lord Keith, the British naval commander-in-chief in the Mediterranean, lent the assistance of his force to cut off the supplies of Genoa. The winter passed, and spring returned. Famine had begun to accomplish its work. Over the green hill-sides ladies of the highest rank wandered under the eyes of our sailors, cutting up every plant which could be turned to food, and bearing home common weeds as a treasure. Ere long, infants died before their parents' eyes, husbands and wives lay down to expire together. When twenty thousand innocent persons, old and young, women and children, had perished by this most horrible of deaths, the distress at last became unendurable to the French army. Massena is said to have been as well-behaved to the unhappy Genoese as military exigencies allowed; which of course means, that his soldiers were to be the last to starve. But when relief became desperate, and half the garrison had been disabled, it was allowed to surrender and march out freely with the honours of war. And what had been the guilt of the Genoese? The sole offence alleged against them is, that they had no military force powerful enough to hinder the French army from throwing itself into their city. Yet "the laws of war" justify the conduct of the Austrian and British commanders; and Dr Arnold, while evidently execrating a deed which rests equally on the two cabinets, has no other solution of the difficulty than that "all non-combatants should be *allowed to go out* of a blockaded town." But what ships would take them? and who would feed them when carried away from their supplies? Evidently no

* "Oxford Lectures on Modern History," 1842; lect. iv.

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issue can be found from this hideous barbarity, without adopting totally new principles as to the rights of belligerents against neutrals.

It is well to contrast these proceedings with those sanctioned in the officers of justice, when sent by impartial authorities to execute a sacred verdict. Suppose that a desperate felon, after conviction, murders the constable who is escorting him to jail, and escapes. He is pursued, and runs into a house, where he barricades himself with an old woman and some children. What would be said of his pursuers, if they burned down the house, and with it burned the innocent family, in order to kill or capture the criminal? * Or, to change the hypothesis, imagine the constable wilfully to run an innocent man through the body, in order to stab the felon behind him; how should we receive his calm justification, that "he had no choice about it, for it was his only way of reaching the guilty person"? Nothing is clearer than that such a remedy of guilt is worse than the disease; yet belligerents are allowed to assume, that the object at which they aim—victory—is of *paramount* importance, so that all other rights are to be sacrificed to it, whenever they are strong enough to enforce the sacrifice. This they are allowed to assume, although it is certain that one or the other is committing hideous outrage; and neither clergymen, historians, moralists, public writers, nor statesmen raise any cry of indignation that can be heard through the tumult of intense selfishness and greedy ambition.

Perhaps because in Asia we have for a hundred years been brought into worse temptation than any other European power—being side by side with industrious, highly-peopled, but comparatively weak nations—therefore it is, that in many points we cling to some barbarous practices longer than others. The notion that all the property of an enemy's country naturally belongs to an invading army, comes from the worst times of barbarism, and is theoretically discarded by all Europe; yet the English armies in the East still hold fast to the idea, long since renounced in Europe, that every town which they capture is their prize-money, and must pay to the army a large ransom as a commutation for their natural right of plunder. Our newspaper writers, especially those of India, blow up a flame of indignation

* If the newspapers have told truth, this very deed was done many times by our officers in the early stage of the Indian mutiny. They burned down cottages with unarmed men, women, and children in them, because armed mutineers had escaped into them.

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and even of disaffection against the government, if it dares to dispute this "soldiers' right." A marvellous example of it was lately exhibited at the siege of Delhi. That city, like unhappy Genoa, had been guilty of the crime of weakness. The citizens were unarmed; we had kept them so; and if they had been our staunch and vehement friends, they had not power to resist the mutineers, whom the Honourable East India Company had failed to keep in control. This was an obvious certainty. The inhabitants first suffered taxation, or rather plunder, from our mutineers; next were made guilty by us for the fact; and in the capture were treated with a ferocity such as well vies with any deeds of Russia or Austria; finally, an immense outcry was made against Lord Canning, for the injustice of depriving the army of the spoil of Delhi—our own city!

It is only within very recent years that the atrocious system of paying *head-money* to soldiers or sailors for the numbers they kill, was abolished by us. Austria brought great and just detestation on herself for thus remunerating the murderers of the Gallician nobility, in 1846; but it is still more recently that we adopted the same mode of reward to our sailors for the wholesale massacre of an alleged piratical tribe in Borneo, under the guidance of the philanthropic Rajah Brooke. The stir made against it in Parliament by Mr Joseph Hume, Mr Cobden, and a few others, has led to its final abolition; but the recency of this conversion ought to make Englishmen less self-complacent in their international morality, and more resolved to undertake the task of self-purification.

The laws of *purveyance* display another very unsettled question, in which, we are happy to say, England has set a good example. In an enemy's country an invading army cannot but make requisitions of supplies from the people around; but it may pay for them, either at prices fixed by itself, or even at market price. Even in France, so long ago as 1814, the Duke of Wellington paid for everything in ready cash—the only way which is not illusive. In Persia we lately did the same. The Russian and Austrian armies, when ashamed or afraid to seem to rob, pay in bits of paper, signed by unknown generals, colonels, or commissariat officers. Farmers and peasants soon despair of ever getting payment, or are ruined before payment is possible, and sell the paper for a mere trifle to speculators who buy it up. On the return of peace, if the paper has largely fallen into the hands of a powerful millionaire.—a Rothschild—it will sometimes

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be paid in full, and with little delay; otherwise, either with much delay, or not at all. The greedy violence of the Russians in Moldavia and Wallachia during the late Russian war, went beyond all bounds; for they not only commanded the service, or rather the slavery, of the people with their carts and horses, but laid claim also to their military action against their acknowledged and legitimate sovereign. When a belligerent is strong, it would appear that he may break all the "laws of war" with impunity, at least against lesser nationalities.

Among the rules of European warfare, hardly any touches so nearly the feelings of military men, and hence the whole European aristocracy, as the right of captives of war to honourable treatment. When the war goes on between nations which were just before in amicable diplomatic relations, this right is granted, sometimes with ostentatious care. If the Austrians had hanged, we will not say, Sardinian regular officers who had fallen into their hands, but even Garibaldi, who at least bore the King of Sardinia's commission, it would have been met with loud and violent resentment. Yet when the nations belligerent have not recently met on terms of diplomatic equality, at least three of the great powers have in our memory discarded at pleasure this most fundamental law of civilized warfare.

The first instance to which we allude is that of Russia in Poland. The Emperor Alexander, having occupied the Duchy of Warsaw (a poor fragment of the old kingdom of Poland), for military convenience against Napoleon I., refused to evacuate the country after his fall; cajoled the aristocracy by proposing a liberal constitution, and forced Austria, England, and Prussia into acquiescence by trimming the scale between them and Napoleon, when he returned from Elba. In a very few years Alexander discarded the constitution, and openly usurped a despotic rule, hereby tearing up with his own hands his own legitimacy. In consequence, after the French revolution of 1830, the Poles rose as a nation to claim their freedom, and took the field with regular armies. In two great battles they were successful; but their resources failed against those of Russia, and they were at last subdued. That it was a national war in a national cause, and in defence of rights guaranteed to them in the Treaty of Vienna (1815) was plain. It was a war waged not by mere guerilla, but in orthodox regularity. Yet the conquered Poles were treated as the vilest of criminals, and were sent to the torturing life of Siberian bondage in great numbers. No European power dared to enter a protest.

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Next came the turn of Austria, who, after worse treachery to the Hungarian nation, hanged their captive officers as soon as the war commenced. Neither England nor France protested, because it was known that Russia was backing her up, rejoicing, no doubt, to see Austria enter into implacable feud with the greatest of her kingdoms. At the end of the war the Hungarian generals who had surrendered to Russia, and had been treated with marked honour until all were caught, were at length handed over to Austria to be hanged; and again no power in Europe dared to protest. Yet Englishmen imagine, that their sovereign, strong in their affection, might take courage to speak for the right cause before all the world. Alas! what a delusion! when England herself finds it so convenient, or so suitable, to practise similar deviations from civilised war. Russia called the Poles "rebels;" Austria called the Hungarians "mutineers and rebels;" words which like "heretic" or "infidel" are allowed to overthrow the first principles of humanity and of right. But the received laws of war avowedly ignore the question which side is constitutionally or morally right; they only ask, whether both sides are strong enough to confront one another in the open field; if so, these laws must be in every case observed, whether the enemy consists of rebels or of robbers,* in order to prevent needless atrocity. Nevertheless, England has never been magnanimous enough to act on this obviously just principle.

It is not merely an Edward I., who treated the Scotch and the Welsh† as "rebels;" nor is it only the Irish whom we have so treated, where we had at least the excuse, that the Irish nation was always divided against itself. George III. and his Tories would have hanged Washington as readily as they hanged the Irish leaders; it was still worse, perhaps, to send in the Red Indians against our American colonists. To the Caffres, entreat-

* Many of our readers must remember the fearful exasperations of the civil war in the Spanish colonies, owing to the Spanish commanders persevering to treat the insurgents as *rebels*. Such cruelty did not save the royal cause, and, as we believe, can seldom or never have any tendency to promote a final triumph.

† "You are a lucky people," said an Austrian to an Englishman; "your old kings did most of the atrocious work to your hand, and George III. finished the last of it in Ireland. Unfortunately for us, we have got to do it yet. When we have violently fused up our populations, as you have done yours, then we will be as virtuous as you." This man, like all other immoral men, did not know that every immorality entails its own curse, and that England might, with far less mischief to herself, have won mildly and honourably what she seized by violent wickedness.

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ing terms of peace, our general-in-chief replied: "We make no terms with *rebels*;" and would hear of nothing but unlimited surrender. Finally, most signally of all, though the Indian armies met us with regular war, we refused to recognize their belligerent rights, denied the possibility that men with skin so black could have a spark of patriotic feeling, or that the Great Mogul, by whose gift and signature we up to that day held our legal position in India, had any royal right to quarrel with us, or to receive the moral homage of his own countrymen. His sons freely surrendered at the smooth-tongued persuasion of an English officer, who presently shot them in cold blood, at his own will and motion, and was rather admired for it. The king himself was tried by court-martial, and sentenced to ignominious punishment. Captive soldiers were deliberately killed by the hundred —we fear by the thousand; to say nothing of the unarmed population strung up in lines on suspicion, or without public trial. Regiments which desired to lay down their arms, and stipulated for nothing but their lives, were again and again refused this privilege. Finally, when all our fear was calmed, when no hot blood remained, when extravagant falsehood had been exposed, Tantia Topee, the last, perhaps the most gallant of their leaders, was betrayed to us for money, and hanged. If Prince Schwarzenburg could have foreseen these doings, how many more envenomed words might he have added to his celebrated dispatch in reply to Lord Palmerston's faintly whispered hope that Austria would be merciful in her hour of conquest!

Well, at least it is only against "mutineers" and "rebels;" hence the evil is not a widely-spreading precedent. It is to be hoped, that in war against regular, acknowledged governments, we set a good example to all the world, and conscientiously obey the laws of war—at least the fundamental ones.—But there is nothing more fundamental to civilized warfare than that no war shall be commenced without a previous statement of grievances and demand of redress—a demand made to the sovereign himself; and that *only after* he has refused redress, and when in consequence war has been solemnly declared, with its motives and aim, shall hostilities be begun. In dealing with great powers, we anxiously observe these forms. France, Russia, America, have again and again committed against us exasperating offences, yet we have not at once rushed into war, but have demanded explanations and redress. At this moment we are embroiled

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with America, by General Harney having occupied an English island with United States' troops: if an English admiral thought to earn the praise of energy by the dashing exploit of expelling him, it is certain that he would be cashiered, and perhaps meet yet severer punishment. But when we have to deal with Burmah, with China, with Persia, we forget all our "Christian" rules; as though, if these powers be the barbarians that we allege, it can be right for us to sink to their level; or, as though we can teach them to observe the international law of Christendom by any other method than by practising that law towards them.

If there is any external phenomenon of war more striking to men's imagination, as indicative of its justice or injustice, it is the mode of commencing it; whether with grave deliberation, slowness, apparent unwillingness, or with haste, suddenness, and an endeavour to take the adversary unawares; or rather, treacherously to treat one who is in amity with us as an enemy. A power which is substantially unjust, gains at least the appearance of gravity and moderation, if it makes its demands with formality, deliberates over the refusal of redress, publicly warns the other side of impending consequences, appoints a time after which hostilities must commence, and, only after thus holding open a door of escape, undertakes the war as if compelled. All this forbearance we do show to a great power, as recently to Russia. But if, on the contrary, a war is suddenly commenced by the voluntary act of a distant official, without even allowing the Home Government to express an opinion; or, what may seem even worse, if orders from home have been given to lull the other party into unsuspicion and come down upon him with a sudden act of war; then, even if the cause of war be ever so good and urgent, it has all the aspect of odious violence and treachery, being more like to a deed of assassination than to a legitimate process against a criminal. It is peculiarly frightful that such abrupt procedures have been repeatedly practised by English officers, sanctioned or not publicly reproved by our highest authorities, without any strong or permanent indignation of the English public. It is but a few years since the English fleet, carrying an army from India, attacked Bushire, simultaneously declaring war; and our envoy, narrating the facts, boasted of the skill with which he kept the Persian authorities, down to the last moment, ignorant that there would be any war at all. Soon after, the statement of the Persian minister was published, that forty days

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had been given by our ambassador to their plenipotentiary at Constantinople for communicating with his government, and that not a quarter of that time was elapsed when our sudden assault was made.

There is much in all this to excite grave alarm, and call for a total reform in our foreign dealings. Christendom was once our only world of diplomacy; we are now in contact, not only with mere savages with whom no political relations at all are possible, but with old, thickly-peopled, industrious nations, who cannot be expected to know or practise the technical peculiarities of European international dealings, but who can practise all the duties of good neighbourhood. If our officers are allowed to plunge into chaos because they are able (rightly or wrongly) to allege that a foreign power, whether China, or Persia, or Burmah, or Siam, or Japan, is neglecting some point of the ceremonial law of Europe, the law of right and of God will assuredly avenge itself upon us.

There never yet was a prudent government, however despotic, which conceded to its servants abroad the right of making war without consulting it. Suppose it to be ever so careless of justice, ever so grasping, ever so willing to assume that an officer, subject to daily irritation at the resistance of his will by a foreign power, is himself an adequate court for deciding on the justice of commencing a hostile attack, still its justice is only one point of the case; the expediency of it is generally a vast argument. A local officer, at Hong Kong or Rangoon or in the Peiho, looks only to the limited question before him, and cannot be expected to embrace all sides of the case. The Persians or the Chinese may have wronged us, yet it may be highly inconvenient to us to invade them on account of the wrong. A small force can do nothing but occupy one or two forts, and there remain, perhaps to be half starved. A large force is sent with great effort; and even if it be fit for human potentates proudly to forget the contingencies of war, and how many great armaments of invasion have failed miserably, crippled by the elements, by pestilence, by famine, and finally have been defeated by an adversary once inferior;—yet we have to ask, are we not made weak and almost passive in Europe and elsewhere, if we have to carry on a war at the opposite side of the world? And if we succeed in the invasion, what are we to do next? Should we try to annex more provinces to our empire? but this may, not unreasonably, cause a league of great powers against us. Moreover, unless the new

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districts themselves give us reliable men and money, every such extension of empire is a source of weakness. Surely the propriety of such extension should be publicly and calmly discussed by the Cabinet and Parliament and Nation at home, and is not to be prejudged by an executive officer on the other side of the world. Yet this is done by our way of going on. One man strikes a blow, in Burmah perhaps or China; a cry then arises in the "independent press," that, "once in for the war, we must go through with it, else we shall be despised." If the end of it is that we annex a province, and no immediate visible mischief accrues, a precedent is established and an impetus given to like "energetic action" of every local executive. To give prizes for conduct, of course stimulates to similar conduct; and for many years past our officers in Asia have been thus incited to take into their own hands a very summary settling of disputes.

Neither the Emperor of the French nor the Emperor of Russia allows his subordinates to make wars for him at their pleasure, but the free English nation appears almost to have forgotten that nation or Parliament has any voice in such a question. The Parliament delegates its control to the Privy Council, the Privy Council to the Cabinet, the Cabinet to some admiral, or some civilian in the far East, accustomed to despotism; and appears to have adopted as a fixed principle, that in order not to discourage energy in its servants, their conduct, even when disapproved, is to be publicly sanctioned, and to be rewarded if successful. The Ministry, talking high of the prerogative of the "Crown" (all of which they assume to themselves), by the connivance of the *out* party which hopes ere long to come *in*, have wonderfully succeeded in making the nation and Parliament believe that the sole decision on war, peace, and treaties *constitutionally* belongs to what is called the Crown, that is, to the Ministry of the day.

It is easy to see the monstrosity of such a state of things, and that if it were constitutional, it ought not to be, and ought instantly to be reformed, even if all precedent were the other way. There is no more fundamental principle of freedom (for it is even admitted under despotism) than that no nation shall be dragged into a war by its executive against its will and judgment. But to say this, is to say more than we here need; for if it were admitted that the ultimate decision rested with the executive government, yet if there be any organic deliberative institutions at all, their voice must at least be first elicited, after mature

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review of the facts. Nay, if even a majority of every class in the nation desired war, yet they have no right to enter into it without first hearing what the minority has to say on the other side. This is the essential meaning of deliberative institutions. The minority has to undergo risk, to make sacrifices, at the command of the majority: well, so it must be, *if* the majority cannot be convinced. But it is the duty of these to listen calmly, to receive and to give reasons. This essential right is overthrown, if a war is entered into, or indeed is patched up by a treaty fraught perhaps with new dangers, by a sudden act, without time for deliberation, or by only one side of the State—the party in power. The Sultan of Turkey * enters into no wars without the solemn advice both of his Cabinet and of his Council. But the English Cabinet has believed itself omnipotent in Asia since the overthrow of the Sikh power, and therefore perhaps ventures on liberties there, of which it would not dream against any of the great powers of Christendom.

Nevertheless, so hard is it to induce a modern Parliament to care for any principles, however sacred and obviously necessary, by arguments drawn from the morality and expediency of the case itself, unless there is either compulsion from abroad or precedent at home, that it is of great importance to appeal to our constitutional lawyers for information as to precedents. Mr Toulmin Smith, in his valuable sessional publication, the "Parliamentary Remembrancer, has brought together a series of precedents on this subject, distinctly showing that in old England, during those times in which our historians are apt to tell us that the king was without constitutional check, it was already a well-defined positive rule, which our boldest kings dared not to violate, that *the consent* of the Great Council, and afterwards *of the Parliament was necessary to a* WAR *or to a* TREATY. Referring our readers to his pages (especially pp. 3, 4, 96, &c.) for details, we here borrow from him a few facts which contain the principle. One of the articles of the Ordinance made by certain barons in the 5th Ed. II. (A.D. 1311) begins with the recital of the existing law in these words:—"Forasmuch as the king ought not to undertake

* By a regulation of Solyman the Magnificent, which professed, we believe, to be based on the Koran, the Sultan cannot begin any war until the Sheikh el Islam (the head of the religious functionaries) has declared that it will be rightful. So excellently intended a rule was sure to be evaded upon occasion. In fact, the Sheikh can be deposed by the Sultan, and a more compliant successor appointed, which somewhat lessens the spirit of this functionary.

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deed of war against any one, but by common assent of his baronage." It is true that all these ordinances were revoked ten years later, but with the protest that no such matters could be dealt with unless they were "treated, accorded, and established in Parliaments," &c.

In the fifth year of Edward III. the king's Chancellor declared that he

"*Summoned the Parliament* on matters touching the Duchy of Guienne and the king's lands beyond sea, *in order to make peace* or *other issue* to the dissensions between the kings of England and France. . . . The said Bishop of Winchester, Chancellor, on the part of our lord the king" (say the Rolls of Parliament) "asked of . . . all the barons and great men there assembled, whether the king should take the way of arbitration (*proces*) as the king of France had proposed, or should make war. *The prelates, earls, barons, and other great men counselled,* as the best, *that the king should make a friendly treaty* with the king of France on the aforesaid matters."

In the seventeenth year of the same great king (A.D. 1343) a Parliament was holden at Easter, the proceedings of which are given in the Rolls with unusual fulness. While the king was in France with his army, and had laid siege to the city of Vannes, two cardinals, as ambassadors of the Pope, besought him to make a truce, in hope of concluding during it an honourable peace. The king, wishing to retain the Pope as a friend, assented to the truce, and forthwith sent from his side Sir Bartholomew de Burghersh to attest all the facts to the Parliament, *and asked of it permission to make peace.*

"The said Sir Bartholomew said, on behalf of the king, that, because this war was undertaken and begun by the common consent of the prelates, lords, and commons, the king did not wish to treat of peace, nor to accept a peace without their common assent."

The replies of the two Houses are calm and straightforward, approving of the truce and of an effort for honourable peace, but without one word which can suggest that the king had shown to them any unusual condescension.

In the next year, the king informs the Parliament that *the king of France has broken the truce,* and requests their counsel, *what he is to do in so great a necessity.* (Do our Queen's ministers now ever condescend thus to ask advice of Parliament?) Both Houses reply: that the war must be carried on; and vote supplies, with the caution: "*provided that the money be spent in the business shown to them in this Parliament.*" . . . They had then no idea of

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equipping a great force for the king, and letting him use it without consulting them as to its direction. (Rolls, 18 Ed. III. Nos. 1, 6-10.)

In the twenty-eighth year of the same king, Parliament was officially informed that negotiations for peace had been proposed, but that the king "would not make peace without the assent of the Lords and Commons:" thereupon he inquired if they were willing. Reply in the affirmative having been made, the Chancellor again put it to them: "*Then you will assent to the treaty of perpetual peace, if it can be made?*" And the Commons replied, one and all, Ay, ay; on which it was resolved that there should be a public record thereof. (Rolls, 28.)

In the thirty-sixth year of Edward III. (A.D. 1362) Parliament was asked to give assent to a *proposed treaty* with David Bruce, King of Scotland. *They refused their assent.* Very many cases of the same kind in regard to the wars of Scotland (says Mr Toulmin Smith) might be quoted. We cannot dwell longer on similar affairs in the same reign, but we pass to the spirited and warlike king Henry V., who first asks advice of Parliament concerning "matters of foreign embroilment," and having entered into war with France by their consent, next year informs them that he hears the French king to desire peace, but that "he would not conclude the same without the assent and good counsel of the Estates of the realm," and begs that when the whole facts are before them, "he shall be informed by the good advice of his very wise council here present (the Parliament) *what will be most profitable and honourable to do in the matter.*"

In the next year, assigning the reason of summoning a Parliament, he says he had "with the assent of all the Estates and commonalty of the realm," gone into France, and "had there so done, that in a short time, by the high grace of God, he had won the town of Harfleur, which is the principal key to France, and had afterward fought at Agincourt, in the land of France, with all the power of France; over whom God had given him great victory." He goes on to state his vain efforts for peace after the victory, and again asks "the gracious aid and counsel of the Lords and Commons" as to his further proceedings.

When the actual peace arrives, the Rolls state that, by a provision in the treaty itself, "the said peace needs *not only* to be sworn to by the said kings, Henry of England and Charles of France, *but also* to be allowed, accepted, and approved by the three Estates of each kingdom." It is then stated that the king

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of France had sworn to the peace, and the Estates of France had allowed and approved it; and that the king of England had, in order to the confirmation of the same peace, according to the manner and custom of the kingdom, summoned the Parliament, and desired the three Estates themselves to look into and examine the tenor of the same peace. The result is, that they "approve, *allow*, *authorize*, and accept it."

This is surely enough to show that modern Cabinets employ the word "Crown" as a cover for usurpation against the Parliament, such as our great and warlike kings, when not yet enslaved to a ministry, never claimed as any part of their prerogative. In European wars, the Cabinet never dares to affront the Parliament and nation by substantially going against their approval, yet sedulously avoids the form of seeming to ask their advice; and in regard to treaties, arrogates fearlessly to itself an actual despotism. But it is our Asiatic wars which have brought out the formidable fact, that the Cabinets claim to discard the authority of Parliament altogether. It deserves remark, that when their endeavours to lull Parliament into negligence prove vain, our ministers act the demagogue in the worst sense, according to the old craft of those who seek to establish a despotism on the ruins of solid deliberative institutions by the aid of popular passions and popular ignorance. An outcry is made about "insult to the British flag," great newspapers garble the facts and write inflammatory articles, and the Parliament is coerced by the ministers and the democracy. On the last occasion, when the House of Commons condemned the second Chinese war, it was subjected to *a penal dissolution;* yet its vote of censure remains unrescinded; and now, behold, a third Chinese war looms upon us! This is not the place to discuss the substantial right or wrong of the new quarrel; but we do protest against the *mode* in which England is dragged into it. To fight first and deliberate afterwards, is the way to deliberate with inflamed minds; besides that it brings upon us the odious argument, which Lord Dalhousie has not scrupled to sanction by his pen, that in Asia England cannot afford to retract, lest moderation be mistaken for weakness! The House of Commons did not discuss the question whether Sir John Bowring or Governor Yeh were fundamentally right or wrong in their quarrel; but they dealt with the general question, whether a local executive officer is to commence hostilities at his own private opinion; *not* in immediate defence against attack, but taking on his single self the maintenance of the "honour" of England.

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National honour is a precious possession; but it is for that very reason a jewel, *the maintenance of which cannot be delegated* by the great Estates of the realm even to a Committee of themselves, or to a Cabinet which represents one side or faction of England; much less to a single local officer. On these general grounds, disapproving the war as *hasty* and *unauthorised*, the House of Commons solemnly condemned the proceedings of Sir John Bowring. THE VOTE HAS NEVER BEEN REVERSED: the minister then defeated has feared to stir the subject. And behold, hardly has the same minister by unforeseen events been a few months in power, than a perfectly similar deed takes places:—an English functionary, not assaulted by the Chinese, but alleging some ceremonial offence, concerning which the Home Government and the Parliament ought to be consulted, enters on hostilities which must either be disowned by us with much humiliation, or followed up at the risk of new war.

There is a phenomenon in this transaction fraught with monstrous possibilities, to which we request attention. Let us try the patience of our readers by a very absurd hypothesis. Suppose Sir Francis Head (or some other friend and admirer of the Emperor of the French), sitting in Parliament, to move for a bill which should authorize the Emperor to place a French war-minister in the English Cabinet; which should further authorize the English minister-at-war, in private concert with the Frenchman, to direct the proceedings of the Queen's fleets, without the previous cognizance of the rest of the Cabinet or of the Prime Minister. We might be perplexed whether to think the honourable member mad or treasonable; no, we should think him mad; for the treason would be too visible to impute to any sane man. It would not need any intense jealousy of the French Emperor to lead to the instant hissing out of such a bill. Without participating in the panic of possible invasion by his fleets, without imputing to him any worse sentiment towards England than the common jealousy of our wide spread and ever encroaching power, we certainly deprecate volunteering to put our military and naval movements into his control, or exposing them to his intrigues. If he have any deep designs, and fear they will meet our opposition, if on this account he desire to paralyse our European action and reduce us to helplessness, or even make us dependents on his bounty; in no way can he have better hope of success, than by embroiling us in a distant and unlimited war. To accept his aid is *pro tanto* to make ourselves dependent on him. A small

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succour cannot affect the war seriously, but it may blind us as to his malicious intentions. Be his auxiliary force large or small, it is but auxiliary: he is no principal in the war, and can withdraw when he pleases without damage to France; and if his aid be large and valuable, by threatening to withdraw he can constrain us not to oppose any of his European schemes. Besides, if we allow him to co-operate largely in an Asiatic war, we give him exactly what he wants—an excuse for maintaining a navy of disproportionate strength; which, when trained in actual service may ere long be used for European purposes highly disagreeable to us.

Now, if for a moment we put, for argument's sake, this monstrous hypothesis, that a French and English war-minister sitting together in Downing Street directed the fleets of England without consulting Parliament or the Cabinet, it would have at least one practical safeguard against terrible mischief. Public opinion would be wide awake; all eyes would be fixed on the English war-minister; any grave error of judgment in him would easily be called treason; to allow himself to be seduced by the plausibilities of his French colleague would be an offence which could meet with no mercy from the nation, the Parliament, the Cabinet, or the Queen. Our minister would deliberate with a rope round his neck; and the opinion admits of reasonable defence, that he would act with greater sagacity for his country than is to be expected from a Governor of Hong Kong or a Commissioner attached to our Chinese fleet. In fact, every evil which might be feared from a French Minister visibly sitting in Downing Street deserves to be feared ten times over from our present arrangements. The commander of the French ships and troops, whether in the river of Canton or in the Peiho, communicates with the local English executive, and the English nation knows nothing of it. None of us can know, or even guess, how far the Frenchman's advice may have ingeniously implicated us in toils which his master is spreading. For aught we know, his intrigue may be busy to guide the Chinese to the very acts, which he then warmly advises us to chastise. The cautious English nation will not allow its sovereign to decree war at the whispers of an unofficial person, nor except by the act of the Privy Council; yet it permits a man, whose name members of Parliament are not certain to know, at the other side of the world, joined in military council with an irresponsible foreigner, to enter upon war in the Queen's name. It is a cheap defence

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to say, "It is not war against the Emperor of China; it is but chastisement of a provincial Chinese officer." No doubt our second Chinese war was fought, without any declaration at all, under this pretence. But hereby we do but aggravate our own lawlessness; certainly the Empire has not *yet* fallen to pieces, although we seem to be aiming to reduce it to the state of India after Aurungzebe, in order that Europe may come in to prey on the carcase. That the future history of China will have any similarity to that of India, we do not at all believe; but that is not our present subject. We are but remarking that it is war against the Chinese Emperor that we make, whatever may be pretended to the contrary; and that in such war we permit ourselves to be implicated at the will of one rather obscure Englishman, whose ear is open to the secret counsel of a servant of Louis Napoleon. All this is as inconsistent with prudence, common sense and decency as it is opposed to every principle of civilized warfare, Christian or Pagan.

Formalities of war give no security against the vilest hypocrisy, nor against the most odious injustice; yet in the worst case they are of great value, not only to the nation attacked, but also to the army attacking, and to its masters. Is it requisite, after the Indian mutiny, to insist, how terrible a scourge a demoralised soldiery may become to the power which has organised it? Not one of the great powers, not even Austria, has more vital reason to beware of lowering the morality of its army, than England. A mixed army of Asiatics can be elevated to nobler sentiments (as the late lamented General Jacob practically showed and attested) by sympathy with what is just and noble in its leaders; but it far more easily drops into unison with all that is worst in them or in their government. The morality practised by us in the siege and storm of Delhi was mainly a concession to the barbarism of the Sikh soldiers, who had joined our standard in thirst of plunder. If it be true that rude men cannot learn religion without symbols, much more true is it that they cannot understand justice and righteous war without their symbols. When they see us *to-day* in amity with a foreign nation, receiving their visits as friends, purchasing from them for mutual convenience, honouring their flag and their magistrates, and *to-morrow* assailing them with war for some local quarrel turning on a point of honour (a sort of quarrel which everybody notoriously can always make when he is determined to make it), the soldiers, who have not even the excuse of nationality for obeying our commands to slaughter,

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must inevitably sink into the moral condition of pirates. They cannot imagine themselves to be fighting for any high idea: they fight neither for their country, nor for their creed, nor for the Right, nor for civilization, but solely for pay and promotion. For this essentially selfish object they are made to kill and rob (war to them is necessarily identified with these two words); than which nothing can be more demoralizing. The same men, unless attached to officers of uncommon mental qualities, are certain to turn against us whenever hope of selfish advancement suggests that course as prudent; and far short of this, our dread of their fickleness is sure to make our conduct towards them vacillate between dangerous concessions and equally dangerous severity. Old Napoleon used to compare England to Carthage, and hence inferred her destiny to fall by the arms of his (Gaulish) Rome. If he could have foreseen the full development of our Indian armies, and have compared them to the vast mercenary hordes which were the curse and worst internal ruin of Carthage, his comparison would have been less superficial.

Yet, in truth, historians point us to a very similar development, still more manifestly fatal, in Rome itself. Carthage fell by foreign force; Rome solely by her own armies and by the operation of military discipline—so called; that is, by uninquiring obedience to the word of command. The old Romans began with a formality quite superstitious, the King and Senate consulting the College of Heralds for erudite instructions as to minute ceremonies. For perhaps four centuries the discipline of the army was admirable: its decline began from the day when a general * first took upon himself to make war at his own judgment, trusting to obtain a bill of indemnity, if successful, with booty and honour of course. A general who so acts will be sure to indulge his soldiers, in order to win their attestations and influence. This was but a step towards the times in which the generals succeeded in teaching the troops that their sole business was to obey, when led not only beyond their province, but even against their country.

By virtue of our annual Mutiny Act, the soldier ceases to be a citizen; he is nothing but a slave. By knowingly accepting a shilling from a recruiting sergeant, he is interpreted to have renounced his civil rights, his understanding, and his conscience.†

* Cn. Manlius: Livy, book 38.

† Until a recent period, our peasants were entrapped into the ranks with a coarseness akin to the violence of the pressgang. Various provisions

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He is at once transferred into a new sphere of relations, of which he has neither theoretical nor practical knowledge. What a trap of iniquity is martial law, was exhibited in lurid colours which might have turned to scarlet in the late discontent of the East India Company's European regiments. When the Company was deprived of its control over the Indian armies, the Queen's servants claimed, as of course, to command the soldiers of the Company; but the men refused to obey, alleging that they had not enlisted in the Queen's service. Their plea may have been bad in law, but it was a plea of which the civil courts have to judge; the military executive must not be judge in his own quarrel. But this was not the worst. Orders were next given to one of the Queen's regiments to fire on their countrymen as on mutineers. Sooner than obey such a command, which to them, no doubt, seemed a horrid murder, they put *themselves* into the position of mutineers; and who shall say what dreadful results might not have arisen out of the complication? A general takes upon himself to judge a disputed question of civil law ("Are or are not these men exempt from the operation of the Mutiny Act?"), and commands his soldiers to shoot down those who, in defence of their supposed civil rights, decline to obey him! It is not by crude, immoral despotism that discipline can ever be strengthened; such discipline as conduces to safe victory and orderly rule must grow out of honour and conscience. By crushing the moral sentiments, no higher discipline is attainable than that of unscrupulous and tumultuous janizaries. If the disobedient regiments had been lawless and threatening, the case would have been totally different; but to expect men to fire at their comrades because the latter fancied (however vainly) that Parliament had given them their discharge, is a terrible indication what sort of obedience our military men expect from soldiers. Troops trained in their school would surely obey a general who, in the most approved Parisian fashion, ordered them to disperse a Parliament or a Court of Justice.

The actual state of the law (as we receive information) is such as may *perhaps* indicate that Parliament has been cheated by

have of late years been made for the protection of a recruit, *provided* his drunkenness has been so complete that he can swear that he did not know what he was doing in accepting the enlistment money; *provided also* that within twenty-four hours he can repay all the moneys advanced to him, and twenty shillings more as a fine. We fear these laws give little or no immediate protection; but they admit a valuable legal principle.—1889.

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the Executive. In the Annual Mutiny Act a soldier is subjected by Parliament to summary death for a vast number of offences, including disobedience to any LAWFUL command. But this most important word LAWFUL is omitted in the oath provided for the soldier in the Articles of War. To refuse to take this oath would be the very highest act of mutiny; yet it imposes on him a duty not sanctioned by the Act of Parliament,—that of obeying the command of his superior, whether it be lawful or unlawful! Not only is no tribunal provided to which a soldier might appeal if commanded to commit a dreadful crime, such as to shoot his innocent and unjudged comrade, but the very idea that lawful commands *only* are to be obeyed is, as far as possible, forbidden to be whispered within the camp. That it is the soldier's duty to obey command, and *not* ask whether it be a lawful command, is practically enforced and admitted. Thus a despotism is usurped, going far beyond the already great and terrible power consciously placed by Parliament in the hands of the military executive. This state of things reminds us of the infamous duplicity by which the slave trade was formerly carried on. Parliament passed an Act which authorised British ship-masters to bring workmen from Africa to the colonies, *provided they came by their own consent*, and added penalties on those who should carry them off by *deception*. But the Executive Government, here and in the colonies, uniformly winked at the notorious breach of these clauses, and sanctioned the carrying off black men by violence and deception. After which it was pretended that the kidnapped people and their progeny had become the lawful cattle of the planters by Parliamentary enactment. Is the soldier's oath at this moment legally imposed?

In the shock of war, when an enemy is in sight, civil rights must be, more or less, suspended. If our own country were the seat of war, we could not wish to retain during the crisis our present rights of free speech, free press, freedom from arrest, free movement, all as perfect as now; for, as the Piedmontese lately well judged, such rights would be used by the enemy for his own purposes. Dictatorial power should then be lodged for awhile in the noblest man, and in a nation which loves its laws and liberty is seldom abused. So also, during actual warlike service, civil rights must of necessity be largely curtailed. Promptitude being matter of first necessity, there is no time for the formal scrupulosity of our law courts. But it is not on this account requisite to leave no conscience at all to a soldier. If he were ordered to

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kill women and children, all will justify his refusal. Neither yet should he turn his weapons against his unarmed countrymen, nor against the public institutions. Blind obedience cannot be approved. If commanded to flog a comrade who has not been tried and sentenced by a court-martial, here also refusal would be praised by every civilian. Why then is it hard to admit that he ought to disobey, if commanded to attack the public friends of his country? If there has been no declaration of war by the Queen, to use hostilities is *piracy*. When it is equally notorious in the one case that there has been no sentence of court-martial on his comrade, and on the other that there has been no declaration of war against Danes or Chinese, why is he to take cognizance of the former fact and disobey, but to ignore the other and obey? Why is he to refuse to commit assault on his comrade, but consent to commit piracy, at the mere word of command?

Moreover, setting the law of military obedience as sternly as one may during actual war, this is no reason at all for making it equally severe on the professional soldier during the months or years of peace. The subordinate civilian in a government office is not very apt to disobey orders or to affront his superior: martial law is not found needful to secure respectful compliance. Why is it any the more necessary in time of peace for ensuring obedience from an ensign or lieutenant? Surely, on them the fear of losing their commissions would be always a sufficient restraint. To the private soldier, it may be objected, dismissal might be no punishment, but rather a boon; but if this be a general fact, does it not argue ill-treatment of the soldiers, amounting to cruelty? Recent discoveries have painfully illustrated this, as far as the London barracks are concerned. It is but a year since we devoted many pages to this disgraceful topic, and we need not further recur to it than to insist that the British soldier could never have thus rotted with odious pestilence in time of peace, had he dared to complain; and it is the needless severity of martial law which makes his complaint impossible, because hopeless. No other class of men can be thus coerced into graveyard silence. Convicted felons would have dared to open their mouths and publish their injuries: only the British soldier could be thus immured to suffer and die with sealed lips. The life of a soldier in peace ought to be a life much coveted; inasmuch as its labours might be merely the labours of the palæstra, such as all young and active men like; and if, instead of cruel martinet-discipline and the intolerable *ennui* which drives them to dissipation, their

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vacant hours were well directed, there would be little danger of their thinking dismissal a light punishment, nor is it probable that any bounty would permanently be needed to allure them. But this touches on a wider subject than we intended. It suffices here to insist that in the existing system, the soldier, often cruelly entrapped into his slavery, is treated like a slave; and that this ought to be fundamentally changed. The details afford material for very lengthened and mature discussion.

There are many who believe that the time will come when no weapons of war shall be forged, and universal peace shall reign. If they expect this time to be brought about without human effort, and that in consequence they may fold their arms in contentment or in despair, their belief is a mischievous superstition. But if they look to this consummation as the final result of manifold struggling towards a juster and purer state, and accept this struggle as laid upon us all by the Highest Wisdom, then it is a generous creed. We also believe that a time will come when men will look back in wonder and pity on our present barbarism; a time at which to begin a war—unless previously justified by the verdict of an impartial tribunal, bound in honour to overlook what is partially expedient to their own nation or party—will be esteemed a high and dreadful crime. The "Governments" will never initiate such institutions until compelled by public opinion and by the inevitable pressure of circumstances; nor is any nation in the world yet ripe to put forth such pressure; otherwise it would not be difficult to devise a supreme court, or rather jury, which would put a totally new moral aspect on war. We honour the good intentions and the moral courage of a man who, like Mr Cobden, comes forward to advocate international arbitration as a means of evading war; and we can admit, that many great wars might have been advantageously avoided by us, *if we had been willing* to submit to arbitration. But it is too visible that not only are foreign despotisms unwilling, English ministries and English governors-general are equally unwilling to submit their claims to judgment, when they think they are able to seize by the strong hand what they fancy is their right. It seems to us, that those who wish to stop needless and unjustifiable war, have to begin their work from another point—the reform of martial law. Let some member of Parliament give notice that he means to oppose the unceremonious annual renewal of the Mutiny Act, and meanwhile move for a committee to consider in detail what is the least loss of civil rights which will suffice for army

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discipline. A new Mutiny Act should embody several principles, first, that a broad distinction be made as to a soldier's surrender of his civil rights during peace and during war; secondly, that in the peace-discipline his subjection be assimilated to that of an apprentice or other servant who may not leave his master, and all questions between him and his superiors be tried in the civil courts; thirdly, that the militia never be under war discipline, except if the country were invaded; fourthly, that war discipline otherwise begins only when war has been declared *in the capital* by her Majesty, *with the formal assent of Lords and Commons;* fifthly, even in war, the *limits* of a soldier's obedience need to be more strictly defined; for it is abominable and unendurable, that when the Queen has declared war against *one* power, the commander should lead his men to attack *another* power, against whom no war has been declared. To expect a soldier to obey under such circumstances, is to train him to overturn the constitution and laws of England, whenever commanders are found unscrupulous and daring enough to attempt it. All such laws of obedience are essentially immoral and demoralising.

The effect of such a change in martial law would be to make piratical hostilities on our part almost impossible. If nine or ten years ago this had been the state of the law, Commodore Lambert would never have dared to commit the offence for which Lord Dalhousie rebuked him,—of bombarding Rangoon without orders, and indeed against order: but every sailor, when commanded to fire, would have known that he was committing slaughter at his own risk; inasmuch as neither her Majesty nor her Indian viceroy had declared war. The English navy would forthwith become, what we fondly fancy it is, a *purely defensive* force, whereas in the eyes of foreigners it is now *essentially offensive*, provoking extreme dislike of us, and inciting every great power to raise a navy in opposition to us. In those who remember Navarino and Copenhagen, how could any other sentiment toward us be expected, especially when our statesmen coolly avow that they send a fleet as "a demonstration" to influence negotiations. But if it were well known that our ships at Gibraltar, at Malta, at Corfu, or elsewhere, are *bonâ fide* a police repressing piracy and all lawless violence, but in no case can dare to blockade a port, bombard a city, or fire into a vessel, unless the cause have been heard, and both sides pleaded in full Parliament, with abundant time for ambassadors and diplomatists to discuss, to explain, to retract or compromise; should we not

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soon be everywhere welcome as mere preservers of the public peace? And might we not find that one quarter of our present Mediterranean fleet sufficed for that duty?

We fear that no Quaker will move in the direction of improving that which he condemns *in toto;* but the Peace Party by no means consists of none but Quakers; and if any of them read our pages, we earnestly press on them that it is by claiming a revision of the Mutiny Act, and by opposing its unconditional renewal, that they will find an opening for their action. Of course the change will be called impossible: what new thing is not? but there is only one misapprehension which it here seems worth while to anticipate. A felonious attack is unceremoniously resisted by *civilians*, equally as by *soldiers*. The spirit of our countrymen is abundantly proved on all sides of the globe, and, without martial law, can be fully trusted for repelling active assault when made upon them. In India, in Borneo, in the backwoods of Canada, or in seas where pirates abound, English civilians are always willing to fight, in pure self-defence, of course, without her Majesty having declared war; nor can there be the slightest danger that soldiers should refuse, in cases in which merchant sailors are always courageous. Nor are our policemen under martial law. It must not then be pretended, that, by such a reform of the Mutiny Act as we advocate, the right and necessity of real self-defence would be for a moment compromised. But it would on the one hand stop the officious zeal of individuals, who fancy it belongs to them to maintain the honour of our flag (a zeal by which they cruelly dishonour it) on the other, it would control usurping ministers, or the dynastic influences which they represent; and in place of this it would enforce public parliamentary debate and solemn approval, as a necessary pre-requisite to any voluntary deed of war.

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EUROPEAN FREEDOM.

From "Fraser's Magazine," February 1861.

FOR full thirteen years England has had more to hope or fear from foreign events and from her own foreign policy, than from any of those measures which habitually divide the parties of Parliament. We do not undervalue the importance of the great social questions which are ever obtruding themselves on the magistrate and on the philanthropist,—the relations between workmen and employers, between tenants and landlords, between the individual workmen towards one another, and the demoralising influences of excessive sensual temptation. Nor would we on any account overlook the immense result of good or evil which must issue to ourselves from our Indian policy; indeed, in many respects this branch of politics may well be called foreign. But to treat any of these questions wisely by legislation, neither the public nor the Parliaments nor the Cabinets are ripe, except so far as to support steadily the undeniable rights of man against man in social relations. And it is not to these questions that either faction of politics turns with complacency while Parliament is sitting. In the vacation one or other statesman may toy with philanthropy: it pleases many, and irritates none: but the matters which call out the energy of visible struggle are those which by traditionary routine constitute rallying cries for Whig or Tory; and these neither interest philanthropy at home, nor direct policy abroad.

On the other hand, the results to England from the establishment over Europe of freedom on the one hand or despotism on the other, must be enormous. By daily contact with despotism our own statesmen are enslaved, and more or less corrupted. With perpetually increasing intercourse European nations tend to common principles and common practice. If the Continent cannot be elevated to our level of law and freedom, we shall be depressed to their level. The violent overthrow of liberty there tends to sap the foundation of our liberties; and with crude despotism abroad comes restriction of movement, of trade, of

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education, of printing; in short, everything to cripple material or moral well-being, not on the Continent only, but in all who have close relations with the Continent. Moreover, our position is made at once more glorious and more dangerous by our old liberties, our free press, and our hereditary maintenance of the right of asylum. In 1850 we heard the muttered threats of the Eastern despots on these very grounds. Neither Belgium nor Switzerland were then safe places of refuge for eminent exiles against imperial anger; much less did their press venture to criticize freely the right and wrong of imperial doings. If on the Continent an irresponsible imperialism is to prevail, England must remain permanently armed in time of peace in order barely to maintain her own hereditary liberties. Things might easily have been far worse. Russia and Austria might have gladly welcomed the Prince President of France after his *coup-d'état* of December, 1851, when he sought admission (according to current belief) into the old royalties of Europe, and was coquetting for a Russo-Prussian bride. In that case we should have seen and felt Russia, Germany, and France in hostile union against us, Austria being at that time visibly a mere satrapy of Russia, not daring to encounter her displeasure. We are already in threefold armour avowedly because of the military successes of France, a power professing friendship to us. With what a weight of military and naval armament should we have been worn down, if, in the interests of despotism, Russia and France had combined against us in 1852! Constantinople would then have fallen into the hands of Russia, for the Turkish fleet could not resist unaided. Our fleet on the Mediterranean would have been permanently doubled. Greece might have thrown herself into the arms of Russia, and England must have looked across the Atlantic for allies, if she desired to maintain the luxuries of free press and safe asylum. If we have been saved from these dangers, it is not by the wisdom of our statesmen, but by the folly of the Russian policy. In fact, since 1849, events have shown that there is a profound and momentous contrast of sentiment in regard to foreign policy, between the nation at large and the two parliamentary coteries which wield the national force; and it may seem that the instinct of party prompts the statesmen on both sides studiously to avoid eliciting the sympathies of the nation, lest its enthusiasm overpower them both. On this account they shroud their doings in secret diplomacy, and generally evade publication until the crisis is past; and if of late things have im-

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proved in this respect, it is due chiefly to the very different practice followed first in Paris, next in Turin.

It is perhaps correct to say, that the English nation took no *practical* interest at all in foreign affairs from 1815 to 1849. Even in 1848, the June insurrection in Paris so damped the general interest felt in England for foreign liberty,—so confounded and darkened the prospect,—that it needed the gallant resistance of Sicily and Northern Italy, the revolution of Rome, and the successes of Hungary, before the English nation would rouse itself to inquire into the facts and the justice of the causes. Then at length, in 1849, the numerous and spontaneous meetings in all parts of the country in sympathy with the freedom of Hungary, showed without mistake what was the instinct of England and what its ground of judgment. It saw a *right* and a *wrong:* a constitutional legal nation assailed by its own dynasty; taken unawares while its trained armies were abroad; attacked on all sides, yet speedily victorious; and *after* its righteous and glorious victory, about to be *again* attacked by the whole force of Russia, because it had vindicated its laws against murder, incendiarism, and treacherous invasion. At this the righteous instinct of England was horrified. It did not suspect that the Cabinet in which so pure a Whig as Lord John Russell was Premier, and so great a talker for freedom as Lord Palmerston was Foreign Secretary, could possibly sympathize with the lawless Austrian dynasty. It therefore addressed earnest and trustful petitions to the ministers who were supposed to be friends of freedom. Lord Palmerston's "Hungarian speech" in Parliament (so it was called) drew out the thankful joy of the Liberal members, who in grateful recognition presented to Lady Palmerston a portrait of her noble husband.

Very few then knew the half-hearted game which the Russell Ministry was playing in Italy, to the ruin of freedom; talking for liberty, winning the confidence and raising the hopes of the people everywhere, yet advising the princes * against war with Austria, which the people knew to be the only possible means of establishing freedom. Recent events demonstrate how entirely right was the judgment of Italy, how absurd and pernicious was the English policy. By assuming the place of arbitrator in Sicily, our Govern-

* In April 1849, Ferdinand of Naples felt it necessary to yield to the popular feeling, and pretend to co-operate with Charles Albert against Austria; but the British minister in Naples strongly remonstrated, reminding him of the *integrity of territories guaranteed by treaties and belonging to a power friendly to Great Britain.*

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ment damped the popular enthusiasm, which thought its cause safe in English hands; then, having gained time for the king of Naples, allowed him to bombard Messina under the eyes of our fleet, which the Sicilians had never imagined was sent there for the mere pleasure of looking on at the hideous game. The English nation as little guessed that Lord Palmerston had given a distinct sanction * to the Prince President of France to restore the Pope "under an improved government." Nor did it then know that the same lord had repelled Kossuth's envoy, had referred him to the Austrian ambassador, had uttered the (diplomatically false) statement that England knew nothing of Hungary but as a province of the Austrian Empire, and had refused to Hungary that mediation which Queen Anne's Tory Government had forced upon Austria in 1709-11, so establishing the peace of Satmar, which Austria flagrantly broke in 1848. Naturally therefore that could not be guessed which appeared at length when the Blue Book of Hungary was published; that Lord Palmerston, however condemning the folly of Austria, who by quarrel with Hungary "crushed her own right arm," still wished that that right arm should be crushed rather than that Europe should lose the precious advantage of "a strong Austria." But in the midst of these events a painful revelation was made of the tone of Lord John Russell's sentiment toward the Garibaldians who had defended Rome against the attack of Louis Napoleon. A small ship laden with exiles of both sexes escaped from Rome to Malta, and were forbidden by the governor to land—a prohibition which might have involved starvation, fever, or shipwreck, when it was hard to know what coasts were then safe for exiles. In reply to Mr Hume's inquiry in Parliament, Lord John Russell defended the conduct of the Maltese governor, on the ground that "these people, who had made a revolution at Rome, would no doubt be equally willing, if they could, to make a revolution in Malta." Who can measure the depth of prejudice implied in such a reply?

The magnitude of the chasm which here divides the nation from the professional statesmen was not fully gauged until Kossuth's arrival in England, the phenomena of which remain to

* A later dispatch qualifies this by the declaration that Lord Palmerston *had not contemplated the use of force* in the restoration of the Pope! In other words, he had assumed that the Romans would not fight. He was not shocked at reimposing the Pope, but at reimposing him with bloodshed, which causes scandal.

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us as a formidable instruction. The whole of the wealthy middle classes unconnected with political office, as well as the lower classes, rallied to Kossuth with a unanimity and spontaneity quite unparalleled, displaying towards him an enthusiasm such as domestic royalty can but rarely command. The greatest and wealthiest cities of the land vied to do him honour; the city of London banquetted him in the Guildhall; Birmingham and Manchester gave him splendid receptions; a host of commercial towns sued for the honour of welcoming him; Edinburgh and Glasgow have always been enthusiastic for him, though time then forbade his going thither. Except the organs of the Stock Exchange (whose cue, we suppose, was to uphold at all events the rotten Austrian finance), the whole liberal press of the country was with him. But in the midst of all this truly national enthusiasm, we should gladly hear that so many as three peers or one privy councillor breathed publicly a word of sympathy with Hungarian liberties unjustly overthrown. The greatest of all the Whigs—the late Lord Macaulay—in a public address the next year, deliberately avowed that the terrible reaction of imperial violences was only the price paid for *the saving of civilisation*. He seems to have confounded Buda-Pest with Paris.

We can now see clearly wherein the logic of the nation differs from the logic of those who are, or seek to be, its leaders. The nation believes that nations, like individuals, have rights, and that rights are inviolable—that to do the right is the way to the truly expedient; but the statesmen believe that all national rights are to be judged of by expediency, and that by seeking to do that which is expedient we shall do that which is right. The moral contrasts of these two states of mind is immeasurable, and, even when neither is carried to its legitimate extent, is vast. Let us dwell a little on the topic.

The politicians tell us that we must wait for the millennium for nations to act on the right and the wrong; that this is all very well for private life, but will not do for public conduct; that it is mere fanaticism to talk against military operations or against a *coup-d'état* as against murder and robbery; that a deed *becomes* right by being very expedient—that is, by conducing to the interests of a great majority: hence, that we can only judge what is right by inquiring what is expedient. Thus, to overthrow a tyranny in Naples and change the dynasty may be right, because a strong Italy is important to Europe; but to overthrow an

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equally wicked tyranny in Hungary may be wrong, just because Europe wants also a strong Austria.

Those who maintain such paradoxes are often fluent debaters, and as such are difficult to answer; especially as they carry us into the very depths of moral theory by the immensity of their scepticism. Let us here satisfy ourselves by inquiring which of the two was practically wiser, judged of by the result? the instinct of the British nation, which cursed the wickedness of Austria and wished to uphold the *rights* of Hungary; or, the subtle cleverness of the British statesmen, who, lamenting the violence of Austria, still desired that violence to prosper, for the sake of European *expediency?* The nation did not trouble its head to ask, "What is to become of Europe if justice is done against Austria?" for it was too simple to imagine that the stability of Europe could depend on injustice to a great country. It was satisfied with the rule, "Be just, and fear not." The statesman, anxious for a "strong Austria" as a bulwark against Russia, deliberately allowed Russia to throw down the bulwark, and convert Austria into her humble dependency. Neither side among us then foresaw the Russian war against Turkey; though it might have been foreseen; for Kossuth in America twice publicly and vehemently foretold it, in March and May, 1852. But no one can now doubt that that war was a natural result of the Emperor Nicolas's conviction that Austria was thenceforth his humble servant, or as he frankly said to Sir Hamilton Seymour, "What pleases me, pleases Austria." The Russian war, in dread of which our statesmen sacrificed Hungary, was brought upon them by precisely this very measure. The nation did not aspire to wisdom; yet by confining its view to the simple question of just and unjust, right and wrong, attained the wisdom which the far-looking statesman missed.

Here is a practical answer to the very gratuitous assertion, that nations will not act on the arguments of right and wrong until the millennium. Far more plausibly might be said, that they will not act on arguments of philosophic expediency until the millennium. Nothing can be clearer than that the masses of mankind are deeply acted on by two sorts of motive; first, by personal material advantage (such as no one will dare to call expediency in that high and noble sense which embraces the interests of all others as well as our own); secondly, by a conception or perception of right and wrong. The impulses of a multitude may, on the one hand, be quite as base and much

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coarser than those of the most unscrupulous tool of tyranny; on the other hand, their impulses are often generous, and, in proportion to their knowledge, aim at justice. But what is quite impossible for a nation is, to estimate justice *by means of* arguments of world-wide expediency. To say that they must judge in this way, is to deny to them any judgment at all on the question of war or peace.

If it is hard to know the right and the wrong, it is generally far harder to know what is expedient, except when we settle it through first knowing what is right. And however scornfully politicians may treat as stupid fanatics those who press the argument of right, they themselves urge it whenever they are anxious to impress the multitude. We have not forgotten the speech of Lord John Russell in 1854, against the Emperor Nicolas (called his "brutal" speech by the *St Petersburg Gazette*), which ended by appealing to God to defend THE RIGHT. That, as between Russia and Turkey, the Russians were "wrong," was a compact and intelligible argument; but whether it is "expedient" for all parties concerned that the Turkish rule be sustained, cannot be fairly debated without plunging into the utmost vagueness of hypothesis. It may be apparently solved by interpreting as expedient whatever is immediately convenient to ourselves; but so base a measure of expediency no one dares to avow and recommend.

If it be admitted that through inferiority of intellect the millions cannot deal with the very diffuse argument of expediency as the foundation of right, and necessarily look on right as the foundation of expediency, an immense result follows, which no statesman ought to overlook. This weakness of nations (so let it just now be called) is apt to defeat all the calculations of the politician who shapes his course on the opposite principle. Thus an English peer in 1852 remarked, "he should have expected that the Hungarians would be proud of being subject to so great a Power as Austria." That is to say, he was blind to the intense resentment felt by a nation when its rights are trampled on. Not feeling with it, he does not anticipate its action. He fancies that Austria is about to become very powerful, and to his surprise discovers that her breach of fundamental morality has reduced her to the brink of ruin.

In the Russian war the same perverse sympathy with Austria drove our ministry into a course, by their own confession, most headlong. They were narrowly saved in the battle of Inkerman,

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and well that has been for Europe; but again we say, no thanks are due to their wisdom. To men who look at the right and the wrong, nothing could be plainer than the course which ought to have been pursued from the beginning of the Russian invasion. In 1848 the Sultan had granted to Wallachia numerous reforms, and was prepared to grant the same to Moldavia. Hereupon the Russian army entered Moldavia, and forced the Sultan to cancel these reforms, and drive into exile the patriots who had demanded them. Consequently, the moment the Turks declared war in 1853, on the renewed invasion of Moldavia, nothing was more obvious than to recal the exiles, proclaim anew the reformed constitutions, and occupy Wallachia before the Russians could advance into it. This the Turks were eager to do, but were forbidden by the Western ambassadors, because the English ministry did not wish to offend Austria, whom they hoped to win to their side. Austria, having violently crushed freedom in Hungary and Transylvania, dreaded its establishment on her border; therefore was eager to occupy first Servia, then the two Principalities. In consequence the Turks were left, with the most uncertain result, to fight their battle unaided—after we had nominally joined them—after our armies had reached Varna. Since single-handed they repelled the Russians on the Danube—though after a hard and terrible struggle—it is manifest that the aid of a fraction of the Western forces already at Varna would much earlier have decided the combat; and if we had urged the Sultan to consolidate the safety of the Principalities by renewing to them the constitution of 1848, peace might have followed. But as we had done nothing, and apparently "had nothing else to do" (to use Lord John Russell's frank explanation), it was resolved to attack Sebastopol. We do not undervalue the magnificent result, but it was earned under risks incalculable: and the ministry was driven into that course, not by any forecast of wisdom, not by any original necessity of duty, but because, to please Austria, they would not establish the just liberties of the Principalities.

Ministries change; but whether we have in power pure Whigs, pure Tories, or coalitions, the sympathy with Austria does not change. Against Russia, against France, intense animosity seems to be possible; even against Prussia the bitterest attacks were made on the Tory side and from the court party in the Russian war; but Austria was screened with the greatest tenderness. Lord John Russell, having blown the war-trumpet boldly in the

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beginning, under the full conviction that Austria must at last come to our side, recommended ignominious surrender as soon as the truth broke on him that Austria did not dare to help us. But the facts which proved that Austria is no longer a great Power, no longer able to perform the functions of a great Power again Russian encroachment, seem only to have called out the fond tenderness of our statesmen for her recovery. As soon as the French Emperor in 1859 avowed his dissatisfaction with the Austrian policy in Italy in so marked a way as to imply that he might give war-like aid to Sardinia, the sympathy of the Derby ministry with Austria was proclaimed in terms most distinct. Lords Derby and Malmesbury both spoke out in Parliament, scornfully warning Sardinia against her upstart course, and asserting the *rights* of Austria to Venetia and Lombardy. When the war was begun, they tried to extort from the French Government a pledge that in no case should Croatia be attacked; and when of course met by the reply that while Austria drew troops and resources from Croatia, that country could not enjoy the advantages of neutrality, they sent the English fleet to the Adriatic, and with the greatest activity prepared for war against France. From that horrible calamity England and Europe were saved by the displacement of the Derby ministry. Lords Palmerston and Russell were believed to have come into power on a pledge to Mr Bright and others, that in no case whatever should naval or military aid be given to Austria. Yet the arming against France (distinctly avowed by Lord Palmerston as such), and the despatch of Lord John Russell on August 31st last, certainly imply that the present ministry intends (if allowed by Parliament) to pursue in 1861 precisely the course designed by the Derby ministry in 1859; and the alleged justification is jealousy of France. And this leads to the inquiry, how far is this jealousy of France justifiable, and how far ought it to be allowed to carry us?

If any one outright avows that England has deeply humiliated France, and *therefore* can never trust her, and *therefore* is bound to resist all aggrandisement of France, however honourable its means—we understand his logic, though we do not yield to it. It would pledge us to unjust wars for the mere purpose of keeping France weak; and as a policy, it must certainly fail: first, because it would rouse against us the just enmity of all the parties and classes of that great nation; next, because it would enable the French Emperor to rally to himself against us the

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sympathies of all the free men of Europe, by the very simple course of promoting their freedom against German or Russian tyranny. In the case of Italy we already see how successfully he has done this. By the splendid services he performed in the spring of 1859, and by imposing neutrality on Austria and Spain through the whole of 1860, he has determined the freedom of Italy, which the Derby Ministry was so vehement to forbid his accomplishing. In the first half of the year 1859 we know what disgust the Italians felt towards the English policy and towards England for its sake. Evidently, if that policy had been persevered in, Napoleon could have rallied all Italy into a bond of hatred against us; and in like manner he would be able to draw into his influence against us Croatia, Hungary, Servia, Bulgaria, the Danubian Principalities, perhaps also Greece and Poland, if England assumed as her rule of conduct to oppose every effort of France on the side of oppressed nations, lest France turn their sympathy to her own advantage.

It is a calamity to us that our forefathers pursued France with indiscriminate animosity, and humiliated her in every corner of the globe. We must in consequence count on some enmity from the French, and it would not be prudent to expose ourselves to it unarmed. But surely this is a reason for trying to soothe, not to exasperate the evil. Every French Government, since Louis XVIII., has endeavoured to raise the military and naval force of France to a standard proportionate to that of the eighteenth century; nor can we hinder this by any direct opposition. Notoriously, in his increase of the navy, the present Emperor has merely carried out the plans of Louis Philippe; and the grounds of this are to every Frenchman quite on the surface. They say, "While England has so great a fleet to threaten us with, we need a proportionate fleet to maintain our self-respect, that our marine may not be at her mercy." Then, on seeing the French fleet increasing, the English admirals, and in due time the newspapers, cry out that it is built *against us*, and that we must increase our forces still more. Thus the two nations are in a vicious circle, and it is hard to deny that we are primarily in the wrong. For we start from the assumption that of course we are to have a fleet enormously superior to that of France, because we do not find it convenient to keep an army equal to that of France. But the Frenchman replies that his army, as such, is *not* an offensive force against us islanders; while our fleet, as such, *is* an offensive force against his seaports and shipping; therefore

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our resolution to keep superior disposable offensive armaments forces his Government into the defensive armaments of which we complain as offensive.

Without entering into the question, what other * course England might pursue, these considerations (we think) ought to abate largely the *resentment* which has been so extensively felt against the increase of the French navy. No one will imagine that Louis Philippe ever dreamed of invading England or of making a sudden attack on our colonies or ships; yet he planned, ordered, and partially executed the scheme which has been thought so offensive in Napoleon III. It appeared in 1859 in what way an English ministry may think fit to use an English fleet—not to defend the shores of England, but to forbid France from aiding Italian liberties by attacking Austria at home. Every class of Frenchmen, from republicans to legitimists, is resolved not to submit to such dictation from England, and therefore will insist on raising the strength of their navy in proportion as we raise ours. Grumble at this as we may, we shall quite miscalculate if we impute to offensive intentions that which in the French conception is purely defensive.

From these general considerations we turn to the special character and conduct of Napoleon III., to inquire how far they justify jealousy of France. His first European act after he became president was his attack on the Roman republic. Whatever severity of judgment we might in the abstract pronounce on this, is practically overthrown by the fact that he previously obtained the consent of Lord John Russell's cabinet. Whether hatred of republicanism actuated them, or whether they made sure that Austria would restore the Pope if France did not, and fancied they were doing Rome a service by stipulating for an improved constitution, we have no means of deciding. At any rate, the Prince President faithfully endeavoured to obtain from the Pope various important ameliorations in the internal government; but was met by absolute refusal, under Austrian advice. After this, more than two years later, followed his violent and treacherous overthrow of the constitution by which he had been

* To enact a monthly holiday, and upon it a *compulsory* training of *all* youths between eighteen and twenty-three to shoot at a mark (*not* to be drilled), would for ever put at rest all fear of invasion, if we had not even a ship at sea, nor any but a skeleton army. And this would only be to return to the old law and practice of England. No foreigner could regard such a proceeding as offensive.

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made president. It does not belong to us to criticise this from a French point of view; but the effect it produced upon English politicians concerns us properly, and is very notable. It instantly produced a panic in Parliament itself, lest he should invade England! Even Mr Joseph Hume implored honourable members to shut their mouths and restrain their feelings, remembering that England was unarmed. In a short time Parliament, with a unanimity and facility long unknown, voted six hundred thousand pounds for building a new fleet; and that very fleet of screw steamers was built *against* Louis Napoleon, which in 1854 sailed *in alliance* with the French fleet against Bomarsund and Cronstadt. This is surely a very notable phenomenon.

It is a received general principle, that a usurper has enough to do in holding his ground at home against the resentment of his own nation, and can never have spare strength to volunteer an arduous foreign war. A single military failure would assuredly cost him his crown; much less could he expect persevering sacrifices from his nation. Unless therefore we are to attribute to public men a remarkable timidity, there must have been some great peculiarity in the crisis which justified it. And we think there was. The overthrow of freedom in France made a universal coalition of the despots possible, and even easy; for had Nicolas so coalesced with Louis Napoleon, Austria and all Germany must have followed. As in 1823 the "holy alliance" sent France to put down the liberties of Spain, a like combination might have been made against England in 1852; for at that time our reception of exiles, and the free comments of our press, made us the mark of hatred to all the despotisms of Europe.

In so far, it was but prudent to arm, nor do we blame that jealousy. For more than a year the policy of the French President was uncertain to us, perhaps was uncertain to himself. His first palpable act was a most striking one, and has stamped his policy ever since. He discerned the intentions of Russia against Turkey, and resolved to oppose them. In March, 1853, he ordered the French fleet to the Dardanelles, in order to support the Sultan against Prince Menchikoff. The Aberdeen Ministry, which by means of the secret correspondence had official knowledge of the *ulterior* designs of Nicolas, protested against Napoleon's act, alleging that Menchikoff's quarrel was limited to the *ecclesiastical* question between Russia and France; and by this protest extorted the recal of the French fleet. Admiral Dundas had already refused to comply with the request of Colonel Rose at

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Constantinople for the support of the English fleet. It was clearly in the power of the English Cabinet to be inactive, while Napoleon implicated himself, on the side of Turkey and of justice, against Russia; and had they done this, they could afterwards have dictated their own terms to him as to the aid we would give in the war. But, whatever it was, or was not, right for them to do, it was undeniable from that moment that the French Emperor had no designs against England. Previously indeed, while still a constitutional president, in 1851, he had extorted from the Sultan, by the threats of M. Lavalette, certain privileges for the Latin Christians in Turkey; which so excited the anger of the Emperor Nicolas, as perhaps more than anything else to have determined the course of events.

From March, 1853, onward, Louis Napoleon has played a great and memorable part in Europe, and we see not how any constitutional statesman can deny that it has been an eminently beneficial part. His army, so outnumbering ours, was the principal agent of success in the actual conflicts of the Russian war. He concluded indeed that war against our will, to the general displeasure of England; and yet, seeing as we now see how effectual a wound Russia has received, few among us will deny that his judgment was correct. Without constraint upon Prussia and Austria, the restoration of Poland was impossible; yet that alone could permanently weaken Russia. No smaller prize of contest could have justified the vast sacrifices of continued war. At the Congress which determined the peace, Napoleon gave a marked support to Count Cavour in regard to the sufferings of Italy, with especial reference to the Papal territories. In the next year he joined us in withdrawing his ambassador from Naples in avowed disgust at the atrocious misgovernment of the king; and it is believed that he was anxious for some stronger measures if the English Cabinet would have given its moral support. At the same time his diplomacy was active in urging Austria to consent to great administrative reforms in the Papal States. The details were first communicated to the public in the celebrated pamphlet, *Napoleon III. and Italy*, which sums up the Emperor's proposals to Austria as follows:— 1. Secularization of the administrative power, by the formation of a Council of State formed of laymen and charged to examine and discuss laws. 2. Representation of all the interests of the country in a *Consulte* elected directly by the Provincial Councils, or at least chosen by the Pope out of a list of candidates presented by these Councils, and called to deliber-

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ate on all the laws and to vote the budget. 3. Effectual control of local expenses by the Provincial Councils, receiving their delegation from the Municipal Councils, who are themselves named by the electors conformably to the edict of 24th November 1850. 4. Judiciary Reform by the promulgation of a code of civil laws based on the Code Napoleon, or on the Lombardo-Venetian code, or on that of Naples. 5. Regular collection of the public revenues by an organization similar to that of France. 6. Reconciliation of all classes and opinions by an enlightened clemency to all who will submit respectfully to the Sovereign Pontiff. Such were the ameliorations which Napoleon, before determining on war, *strove to win for Italy by peaceful diplomacy.* The same pamphlet assures us that he supported the scheme of a federation of all Italy under the Pope. This was the only form of union possible without revolution and the overthrow of the princes; also to this, Ferdinand II. of Naples had given his voluntary adhesion in 1848. It is therefore utterly unjust and false to say that Napoleon III. entered into the war of 1859 merely to employ his army or to steal territory. Having exhausted the forces of diplomacy (with the approbation of England) at Vienna and at Naples, he finally aided Piedmont to repress and humiliate Austria, whose force and obstinacy forbade amelioration in Italy. In restoring the Pope he had entered into a pledge with the English Government that the Papal territories should have an improved constitution. By overthrowing their Republican liberty he had contracted moral obligations to the population itself. But these obligations he had for ten years been forced to neglect, because Austria forbade; and while Russia backed Austria behind, Italy could not be freed. At length, after Russia had been at once severely crippled in herself and profoundly disgusted with Austria, the French force was equal, and yet only just equal, to the task of securing to Italy her own self-government.

The chief organs of the English press and the whole Tory party were furious against Napoleon for his undertaking the Italian war in 1859. They were almost as angry with him for the peace of Villafranca.* Instantly the wildest absurdities, invented in the Orleanist circles of Paris, were sent abroad over England.

* With no small reason did Count de Morny, in his speech soon after, say—"If the English, who say we have done too little for the Italians, would have given as much energy to their cause before the war, as they avow after the peace, the freedom of Italy might perhaps have been won in Congress, without any war at all."

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Napoleon had secretly coalesced with Francis Joseph to make joint war upon Prussia or upon England! From the day that the French army entered Italy, it had been pretended that we more than before needed to arm. The cry became louder than ever after the peace. A volunteer army was urgently recommended. The cry for more fortifications became intense. And why? Because France had displayed so great military energy. Let this have what weight it may; though it seems very clear that the two great victories were won by the disaffection of Italians, Hungarians, and Croatians in the Austrian ranks,—were won very narrowly,—and were productive of effects so vast only by the hatred of the Italians for the tyrannies which oppressed them. But it cannot be pretended that the political *acts* of Napoleon justified any of the ferment made against him and the zeal for English armaments. Under threat of war from Prussia he stopped short in his Italian career, again showing his habitual self-control; nevertheless, firmly holding Austria back, he enabled the Italians to reform themselves. Thus he has gained * for them a priceless advantage; while English diplomatists who can lecture foreign powers so ably did not give to Italy even kind words until the last moment, after victory was achieved everywhere in the field.

It is humiliating to us to note with how great reason the Bonapartists extol the superiority of French to English policy. The English Cabinet approved of the French invasion of Rome, extorted from Napoleon the condition that the Pope should establish an improved government, and then was distressed that *force* was used against the Romans, and became seriously angry when the same force was at length applied against Austria, who had hindered Napoleon from fulfilling the pledge which he gave to England. The English Cabinet, through Lord Minto, stimulated the Italian hopes of freedom, and then, from tenderness to Austria and hatred of Republicanism, did all that diplomacy could do to ruin freedom. The English Cabinet, with the secret correspondence in its hands, publicly pretended that Russia had no ulterior designs against Turkey; and by thus appearing to the Russians to be in collusion with them against France, stimulated Nicolas to precipitate himself on Turkey, and made the war inevit-

* If he had *wished* to stop Garibaldi's career, one whisper to the Austrian ambassador as soon as Garibaldi landed at Marsala would have done it effectually. The abstinence of Austria proves the complacency of Napoleon in this great revolution.

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able. Napoleon, without having seen the secret correspondence, discerned the plain state of the facts,* and showed so early a hostility as would have made Nicolas recede ere it was too late, if England had not at that crisis played the Russian game. England, in withdrawing her ambassador from Naples, and in allowing Count Cavour to bring before the Congress of Paris the internal misgovernment of the Papal dominions, made a public avowal that the state of Italy was exceptional and was not to be dealt with by ordinary national rules; in fact, that the princes of Italy deserved to be put out of the pale of civilised potentates. All the misery of Italy was notoriously due to the guilt of Austria, was the direct fruit of the celebrated Secret Treaty of Austria with Naples in 1815, by which Naples had ever since become a virtual appanage to the European power of Austria. England, we say, was shocked at the miseries of Italy; yet not only would not put out a little finger to remedy them herself, but fell into violent invective against Sardinia, as soon as it transpired that France and Sardinia were resolved to endure them no longer.

It is wholesome and necessary to repeat and dwell on these things; for it is too clear that since the death of Mr Canning all the English Cabinets have fallen into the puerile imbecility of desiring *cures* and shrinking from *remedies*. The cavaliers of Charles I. *wished* the king to rule well and honourably, but could not bear to have him *compelled* to be legal. So our ministries can give plenty of good advice to Austria, but rally to her side the moment the attempt is made to coerce her. Lord John Russell's two despatches to Turin of August 31st and October 27th, 1860, have fixed the eyes of Europe on the monstrous inconsistencies of our foreign policy.† In the former he assumes a stern and almost hostile tone against Sardinia, in case of her "attacking the domains of the Emperor of Austria, *or the King of Naples.*" In the latter, after the Sardinian armies have invaded the Roman and Neapolitan territories, Lord John Russell dis-

* So did Colonel Rose, whom Lord Aberdeen did not thank for his straight-forwardness.

† Since writing the above, we see in the correspondence from Berlin, that "Sweden, unable to trust in England, *through the eternal vacillations of English cabinets*, has resolved to enter into close alliance with Prussia, with a view to hinder the dominion of Russia over the coasts of the Baltic." These vacillations are the necessary results of secret diplomacy; yet it is pretended that this unconstitutional and pernicious system is essential to uphold the *influence* of England abroad!

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tinctly and elaborately justifies the deed. In the former he sides with "the Great Powers" against Sardinia, hinting that England will even aid Austria with her fleet if Venetia be attacked. In the latter, he assumes a broad argument, which is as available to justify invasion of Venetia as invasion of Naples. The populations of the Roman and Neapolitan States, says he, felt that they were misgoverned. They had a right to judge of this for themselves. They had a right to accept the aid of the King of Sardinia; therefore the king is not to be blamed for giving the aid. Lord John proves it by reference to Vattel, and to our own William of Orange. And is it possible that he does not see all this to confute his own previous despatch? If Romans and Neapolitans may judge whether their rulers are tyrannical, and may call in the aid of Sardinia, why may not Venetians? He surely does not doubt the fact that Venice is as much disaffected as ever Naples was? At the same time, the *tone* of the two notes is contrasted still more strangely. The former is scornful and dictatorial to Sardinia, not only laying down duties for her, but taunting her with her weakness, treating Count Cavour as delirious* if he dare to enter war against Austria, and sarcastically telling him that that power would not be sorry for an opportunity of restoring the Romagna to the Pope, and Tuscany to the Grand Duke. It declares that Sardinia will have no "chance" of success, except by bringing France into the field, and kindling a general war in Europe. This the Great Powers are resolved to forbid, "and Great Britain has *interests in the Adriatic* which her Majesty's Government must watch with careful attention." But in the second despatch Lord John assumes the tone of one who is more favourable *than France* to Sardinia. "Her Majesty's Government," he says, "can see no sufficient ground for the severe censure with which Austria, *France*, Prussia, and Russia have visited the acts of the King of Sardinia."

Worst of all, the despatch of August 31st vindicates the *right* of Austria to Venice, asserting that an attack from Sardinia would be "a *wanton* aggression," and must fail against "Austria, fighting in a *just* cause, to maintain her *violated* territory." Now to this part of the subject we invite our readers' special attention. What is the RIGHT of Austria to Venice? We have no need to

* In the despatch as officially published in England, we read—"Let not Count Cavour indulge in so pernicious a *delusion*." This is coarse enough; but the Sardinians allege that the original was *delirium*.

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plunge into any depths of moral metaphysics, we have not to analyse the word "nationality," when we assert that in 1796 Venice was a nation, a constituted government, a recognised power of Europe a thousand years old, and an ally of Austria; an older power than England, and having national rights as truly as England. Napoleon I. overran and conquered Venice in the name of democracy, and in 1797 presented it to Austria by the peace of Campo Formio. Such was the primary *right* of Austria to it. When war was renewed the French reconquered Venetia, and held it until calamities fell thick on Napoleon; upon which the Austrian armies re-occupied it as their rightful possession. The congress of Vienna, which unwillingly rewarded Alexander I. with the Duchy of Warsaw and with Finland, willingly gave to Austria continental Venetia, and to England the Venetian islands. Thenceforward English statesmen insist that Austria has a *right* to Venice.

We do not intend to censure the English plenipotentiary at that Congress by placing the deeds of the Congress under the full light of later events. *If* a new spirit of legality and fidelity had come into the Austrian dynasty, no one can say that it might not in thirty years have won the loyal heart of the Venetians. We do not for a moment overlook that nearly all empires are in their origin formed on no other right than superior force. We do not apply to Venice and Austria principles which would tear all empires asunder; nor do we shrink to apply everywhere the principles which we insist on applying to Venice. A violent conquest by a superior force is in politics closely analogous to the violent abduction of a woman. If some Achilles slaughter the husband of a Briseïs, and violently takes her to his bed, no one imagines that his superior force, while it is mere force, gives him any rights. But if, after a while, despairing of a better fate, after old griefs are dry, she reconciles herself to her captor, moral ties between them supervene, and we recognise the union as a *bonâ fide* marriage. Nay, if after a true loyalty between the two has been established, an attempt be made to break their union, in revenge for the original violence, we pronounce this to be a making of new wounds under pretence of healing old ones. In applying the analogy to empires, the principle is strengthened by the passing away of old generations. The grand-children of the conquered and the grandson of the conqueror are in a relation more favourable for reconciliation than if the same individuals lived on for ever; and if a real moral union has intervened, as between

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Wales and England, *this* (and certainly not the original violence) *constitutes* the right of the ruler over the ruled. But if a woman, violently carried off, is never reconciled to her captor; if, with the progress of time, there is not only no progress towards moral relations, but an ever-increasing exasperation, a need of permanent violence to hinder her escape, with cruelties and suffering incident to that violence, then the universal conscience of mankind avows that no lapse of time can confer a *right* of possession. That which was originally a crime is not only still a crime, but is of ever deepening intensity. Statesmen are apt to assume that long possession constitutes a right, because long possession ordinarily softens feud and raises up in the conquered country at least a large internal party which sides with the conqueror, especially when the conquering race colonizes into the other, and intermarriages are common. The feud of Irish and English has lasted down to our own day; yet so large and intelligent and spirited a fraction of the native Irish has energetically adhered to the English policy and Empire, that no English statesman could be justified in abandoning them to civil war, nor would any moralist from without advise it. Much the same, we believe, may be said of Posen, owing to the large immigration of Prussians into the Polish area. But Venice, treacherously accepted and violently treated in 1797, seized on during Napoleon's fall with smooth professions of constitutionalism, has seen herself cheated of every promise, and is every ten years more and more bitterly hostile, more and more needs violent constraint. Even at the peace of Villafranca, Francis Joseph stipulated to make Venice a strictly Italian province, with national institutions, and (to use his very word) to make the Venetians *happy*. He was probably sincere; but he did not dare to fulfil his undertaking. Violent arrests and deportations, every form of arbitrary force, are the substitute for the promised national administration. The Austrians themselves do not pretend to have any native party in Venice. Thus it is no matter of surmise, but is a public European fact, that there never has been even an incipient or partial loyalty in Venice; and that its wrongful seizure is a crime, not obsolete by its antiquity, but perpetuated to this moment with exasperation. The enormous emigration of the military population is another public manifestation of the state of feeling.

Lord John Russell knows all this, yet he allows himself to talk of the *rights* of Austria to Venice. He is not an absolute stickler for the deeds of the Congress of 1815. To say nothing of Belgium,

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and Poland, and Cracow, and a Napoleon on the French throne, he has justified the King of Sardinia in driving out the Pope and the King of Naples from territories guaranteed to them by that Congress. How are we to understand or explain his totally different treatment of Austria?

There are those who say that the very similar behaviour of Whigs in office to Tories, as far as Austria is concerned, is determined by a force *behind* the Crown, unseen to the nation. The son of the King of Belgium has married an Austrian princess. According to these interpreters, Lord John's despatch of August 31st (which first saw the light in Cologne, immediately after the meeting of the Queen with the Prince Regent of Prussia), expresses the Prusso-Belgian policy; but the despatch of October 27th is the true Russell policy. Others see in these vacillations the marks of a struggle in the Cabinet, with alternate victory. We do not undertake to clear up these mysteries; but the fact of a contrariety of principle is manifest, and calls upon Parliament and the nation to express itself distinctly. The former despatch is full of exasperation against Sardinia, indicates suspicion against France, and avows complacent trust in the wisdom of the (other) "Great Powers," to whom England, by reason of her interests in the Adriatic, will give (at least) moral support, if Sardinia dare wantonly to violate that rightful possession of Austria—Venice! Seeing the enormous results pending, Englishmen are surely bound to declare how they will feel if the fleets or diplomacy of England aid Austria to perpetuate her tyranny.

Before we allow ourselves to be carried away by blind prejudice and ancient rancour against France, let two more considerations be well weighed. 1. With whatever right pure republicans like Mazzini may hate the French Emperor, all those with whom royalty is a cause so sacred as to justify warlike interventions ought to be grateful to Louis Napoleon as the man who has made great Republics in Europe impossible. Had he been faithful to his duties, and honourably acknowledged the Roman republic, Georgey could never have made his conspiracy, and the Hungarian republic would have stood in spite of Russia. If the liberties of France, Italy, and Hungary were republican, German liberty would most likely have taken the same course. Napoleon has forbidden it. 2. After his overthrow of liberty in Italy and France, and the treachery of the German Princes to their subjects, nothing else was to be expected but that the next struggle in Europe would be that of Republicans against Absolutists, with

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no party at all aiming at constitutional royalty. Certainly for a while this party vanished, in disgust at the worthlessness of royal oaths. It has been restored, primarily, in a moral sense, by the noble faithfulness of Victor Emmanuel and the intrepid policy of Count Cavour; but secondarily, in a military sense, by the coalition of France with Sardinia. Hereby the Emperor has virtually made himself the leader of freedom, the leader of the republicans, whether they like him or not. He has gained a *moderating* position, in which he does not originate, but controls, inevitable movements of revolution, dictating that they shall in every case be royalist, and bridling all contingent democratic fury by the hope of his powerful aid. Thus a contest which might be desolating and lingering, he deprives of all its most dangerous properties, while allowing the forces of society to gravitate into their natural places, by which alone they can make a true breakwater against foreign action. England might *aid* this great and good work. Hitherto she has chosen to stand aloof, and has prudentially refused to succour Sicily, Naples, Spain, Poland, Lombardy, or Hungary. All her exploits of late in western Europe are confined to her crushing the constitutional liberty of Portugal in 1847. And now, if France chooses to pursue a braver course, shall England feel hostility lest French aggrandisement follow? The way to hinder it is, not to thwart, but to assist France whenever the cause is intrinsically a good one. As regards a bulwark against Russia, we cannot construct or reconstruct empires; but the elements of a new and really powerful kingdom are obvious on the banks of the Danube. If Austria fall, Germany will run together, and the Queen's grandson become King of Germany, perhaps with Switzerland combined; that is no bad bulwark; and to a free Hungary, it is highly probable that Servia and the Principalities will join themselves, if Western policy favour such a development.

Our readers must not suppose that we are blind to the misdeeds of Napoleon III. in Italy for the last two months. As to Rome, we are not sure that he is to be censured; that depends on his after policy. He has damped and restrained the impetus of the Spanish and German Catholics, and has beneficially retarded the moment of papal despair, until Italy shall be organised and strong. But his interference in Gaëta has gone beyond the mark of this, and has visibly prolonged the disorganization and weakness of Italy. We trust that our Government will be able to dispel the suspicion which has been expressed, that it has seen with com-

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placency this conduct of the Emperor, in hope that it will cripple Italy and make a war for the recovery of Venice impossible. We confess the present aspect of things suggests that Napoleon is still struggling to bring about a division of Italy into two States. If England desires a united Italy, the way to it is by supporting the Italian movement; certainly not by supporting Austria under the plea of jealousy against France. The French Emperor, by nature and by position, can do nothing straightforwardly. He cannot afford to avow noble objects with the simplicity of a Garibaldi. But it remains possible that ere long he may say to the English ministry: "You have wished for a united Italy; have your wish; but now learn, that the inevitable result is a war on Austria, and an invasion of Hungary; a war which I have deprecated, but in which I feel bound to become a contingent ally to Italy, so far as to insist that Austria shall receive no aid." It is well that Englishmen should pronounce whether they will thereupon allow the British forces to aid an old and pernicious despotism against Hungary and Italy, and give to France the avowed leadership of liberty.

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DUTIES OF ENGLAND TO INDIA.

From "Fraser's Magazine," December 1861.

NEVER was there a conquering nation which had more good to bestow on a conquered country, than England on India; never was more of honour and strength to be earned than by bestowing our good freely. Their exuberant soil and climate, their magnificent rivers, forests, plains, and mountains, joined with industry and docility in their swarming millions, and high intelligence in their superior races, did not give to the Hindoos peace or material welfare, because they have neither political unity nor worthy political precedents. Precisely what they need, it is in our power to give them—first, modern science, European literature, and among their results a purified religion; next, commercial unity and easy intercourse; finally, political cohesion and stability. If under English rule their minds become enlightened, their industry productive, their national character elevated, and, in consequence of all this, their inclinations loyal, the material and moral advantage to ourselves will be incalculable. With such a possibility before us, how terrible is it to contemplate an opposite contingency—which is too probable, if we judge by mere experience—that the future is pregnant with blood and fire, wasteful fury and exhaustion; and that one hundred and eighty millions of human beings who might be blessed by us and a blessing to us, will hate us more and more every ten years, will make insurrection whenever they dare, and drive us into tyranny through our fears; until India is a drain on our strength, a weakness and a disgrace, with disaster ultimately the greater the longer we hold the country. It is wholesome to open our eyes to the terrible fact, that in the last thirty years the English rule has become far more hated than it was previously, the English officials far less conciliating (the native newspapers say less *competent* since the suppression of Fort William College); and this, while in Europe all national freedom has become intenser, and in England generally the desire to establish and confirm the freedom of all our colonies and dependencies has in many ways strongly expressed

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itself. We have not room here to enter deeply into the causes of this fact, which are probably complex: it suffices to point at phenomena which are on the surface.

In 1833, when the charter of the East Indian Company was to be renewed, the Ministry of the day announced two principles contained in the new charter to be so vital, that if the Company refused them the Ministry would advise Parliament to discard the Company. Of these vital principles, one was that native Indian subjects of the King were to be admitted on equal terms with British-born subjects to every office of State, except to be Governor-General or Commander-in-Chief. The other provided that Europeans should have full right to hold landed property. Lord Macaulay has published the ample and careful speech in which he expounded the policy of Lord Grey's Government; nothing can be nobler in promise, more pointed in avowal, more exciting to the hopes of intelligent Indians. Proportionate must have been the disappointment of precisely that part of the Indian community which is our natural ally, when it found this provision of the charter to be *a dead letter;* and that natives were excluded alike from the "covenanted" Civil Service, and from promotion in the army. Until lately it was possible for them to vent their reproaches on the Company, and to believe that the Crown would have been more faithful to its engagements. But it is evident that a deep distrust of the Crown also is now sinking into their minds. Sir Charles Wood has recently made an emphatic avowal, that the Government is *not* averse to appointing natives to the very highest places of the judicial bench; and how does the *Indian Mirror* comment on this?—

"Such appointments (it says) will win the plenary confidence of our countrymen in the justice of British rule. We are, however, sceptical as to the fulfilment of this measure in practice. Truly did Mr Scully remark in the House of Commons, that this power would be no more exercised, than that under the Act of 1829 to admit Roman Catholics to the English Cabinet; or, we should say,—*perhaps no more than the solemn declarations of the Royal Proclamation of* 1858 *have been carried into effect!!*"

The italics and punctuation are reproduced from the Indian writer. The words of the Royal Proclamation to which he refers are elsewhere alluded to as follows:—

"It was expressly stated on a recent occasion, that 'All her Majesty's subjects, of whatever race or creed, should be freely and impartially

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admitted to offices in her Majesty's service, the duties of which they may be qualified by their education, ability, and integrity fully to discharge.' Our countrymen cannot help believing it to be a dead letter, inasmuch as they find an insuperable line of demarcation drawn between themselves and those of the dominant race in every department of Government service. The registrars of offices are almost invariably Eurasians or Europeans; though they are often deemed as mere puppets in the hands of their experienced native assistants."

It has been observed, that the improved morality and more earnest religion of the last thirty or forty years in England has sensibly increased the chasm between the Indians and ourselves; and we fear there is truth in this. The very vices of our countrymen, when they openly kept black mistresses, put them into domestic relations with the natives, and gave them a more intimate knowledge of all sides of their character. English nabobs of this class had sometimes even an enthusiastic confidence in the personal attachment and devoted faithfulness of the natives; and whatever severity of judgment might be called out by their domestic licentiousness is sadly silenced when one contemplates the miseries, the enormities, the demoralisations innumerable, contingent on such a war as that of 1857-59. How much preaching of missionaries, how much public education, how much beneficial and conciliatory government, will be needed to wipe out the long train of evils hence entailed? Alas! it would seem that any amount of polygamic enormities and pagan irreligion in foreign and despotic rulers is a less evil to a conquered country, than their incapacity and their unconciliating demeanour. Surely our first duty and our first wisdom is, to determine that we *will* win the loyalty of the Hindoo millions, and have no more insurrections.

And here we beg to interpose a protest against two classes of talkers, who, thinking themselves speculatively wise, do much practical mischief: indeed, we have met both forms of folly in one and the same man. The one class is most liberal in its proposals to lay down empire and sacrifice foolish ambitions. It tells us that India, if subject to Russia, would be worth far more to us in its commerce than now; that the country is not worth keeping, since we shall never reconcile the people to our rule; and it will always be to us a drain of men, a public anxiety, a periodical danger; while it exposes us to envy from all the Great Powers. It is therefore great nonsense (they say) to make a fuss about India, as if we were going to keep it: on the

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contrary, we ought to give it up to the people themselves, or to any civilised power that will take it. The other class of talkers has always the topic of *races* prominent, and supposes this to decide that the Executive of India must be at once despotic and foreign. Black races of men—those to whom hot climates are natural, are (we are told), inevitably inferior to the European race. Where the black and white meet, one or other must be absolutely master. The two are intrinsically uncongenial; no compromise is possible: they will crush us if we do not completely keep them down. All history, all experience (these reasoners assure us), make this certain; and if we do not learn it by the past, we shall learn it too painfully in the future. To give political rights to the Indians would be madness; to give them equal social rights would be good, if it could be done; but we know it cannot when the European is politically dominant. Full despotism must therefore on no account be relaxed, at least over the natives; nor must they share with us any high offices, executive or judicial. Whether non-official Englishmen are to have exceptional privileges, the race-mongers are not agreed.

We do not notice these theorists as though we imagined it possible that their doctrines could be received by any English statesman whatsoever, but because they tend to chill and damp exertion, to give an excuse for idleness, cowardice, dangerous delay, and violation of the public faith; when every public man would gladly put off, to the morrow and to his successors, the duties which are incumbent immediately. To those commercial economists who talk about peacefully laying aside our Indian Empire, it suffices to reply, that the thing is for a long time to come palpably *impossible*. The pride of England is as much a fact as the idolatry of Hindooism; and to subdue that pride by economical preachings is likely to be as long a task as to convert the Hindoos to Christianity. For aught that we can surely know, to have been expelled from India in 1857, might have been for our welfare; but that is not a practical question. The only *peaceful* mode of retiring from our imperial cares, is that which has been exhibited by us in Canada. It presupposes that the people gradually get more and more power, until, like a son who comes of age, the parental control is discontinued. We have to take at present the first steps of this course. We cannot take the last steps first, nor can we abruptly and recklessly resign our post. By violently conquering so many Indian dynasties—last,

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and not least, Oudh and Delhi—we have incurred vast responsibilities. Even if England herself were willing, she has no right to throw back India into chaos; but is bound manfully to encounter the difficult problem, how to train and govern it wisely, and make her rule a blessing.

To the preachers of race-diversity, we reply, that those diversities reveal themselves plentifully and strongly in Europe as well as in the tropics. We have indeed but recently escaped from the dogma that used to be dinned into our ears, that "none but *Teutons* are capable of managing representative government." This, we believe, was the form in which the doctrine was imported from Germany; but there were those among us who, observing that despotism had invaded Germany as well as the rest of the Continent, proposed to modify the axiom into "none but *Britons*, &c." We know that some were struck with wonder when the discovery broke on them that the Hungarians with Tartar eyebrows (that "Scythian people," as the Germans call them) have managed their powerful municipal institutions for eight hundred years, and that under the greatest difficulties, as ably and successfully as any nation in historical record. Still more lately, it has been a wonderful revelation to race-mongers, that the people of Northern Italy are suited for political institutions. It is hard to understand how any one who has even the most superficial acquaintance with history, should be ignorant that the Spaniards and the Bohemians had excellent free institutions, and conducted them most successfully for centuries, until they were overpowered by the craft, perfidy, and widely-extended possessions of the House of Austria. Happily, in the last ten years inductive speculators have enlarged the dogma. It is now conceded, that not "Teutons," much less "Britons" only, were intended by the Lord of all Power for liberty, but all *European* races, at least while natives of *temperate* climates. The Irish were, till recently, a grave difficulty in the way of thus enlarging the proposition. We must all remember that a great writer (and philosopher) dared to pen the despairing sentences, that Ireland needed to be "regimented" under field taskmasters, and treated as a slave country; and that it would be a mercy to them and us if the whole land could lie for twenty-four hours under the waves of the Atlantic. Fifteen years—half a generation—has changed everything. No one any longer despairs that disloyal, insurrectionary, Papal Ireland will in another generation not only be as loyal to the English Crown

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as Wales is, but will be as manifestly fit for freedom as Sussex or Lancashire. That the diversity of temperament and race will disappear, we do not say, nor do we wish it. As individuals differ, so do races, so do counties of the same nation; and very stupid would it be to desire monotony. But our differences are those of man and man, not of man and beast. At the same time there remain in Europe Neapolitans and Sicilians and Russians. Who that has opened a book concerning India is ignorant that its races differ internally as much as those which are foremost and backwardest in Europe? In ancient Europe, foremost surely in intelligence was the Greek nation; yet how great the difference between Athenian and Spartan, Bœotian and Rhodian, Corinthian and Thessalian! If any political result ought to be gleaned by us from early collegiate studies, it surely ought to be this, that within the bosom of the very noblest human race, the greatest diversities of national character are propagated by their institutions; so that under bad institutions the race itself may seem, *primâ facie*, unworthy of liberty. Even the great Aristotle, author of that noble axiom, ***Man is a political animal***, imagined that none but Greeks were fit for liberty, and that "barbarians" were made by nature to be slaves. We now know that for the degradation of national character which slavery has induced there is only one remedy, and that is *freedom*—as soon as it can be got and *kept;* but it will not be kept if *given* prematurely. Freedom (that is, subjection to equal law, while the law itself is subject to deliberate revision), freedom is the only reasonable and normal state of nations. This is the goal to which we must drive, whatever the weakness or peculiarity of the races over which we hold temporary despotism. As a foolish child needs more careful restrictions than one who is prudent, so does a subject race when weak and foolish; in order that we may rear it into self-control, and thus aid it to fulfil its part in the grand scheme of Providence. We should regard a father to be unwise who grumbled that his child had a mind of its own, and did something more than reproduce the father's peculiarities and limited virtues. What else but unwise is a ruling race which reviles Hindoos for having a different national character from the English? The weaknesses of that character are among the data of our problem, and may make it more difficult, but certainly do not excuse us from the task which we have voluntarily assumed—to rule India; which means, *to defend it from itself in infancy, and train it into manhood.* Again we say, how long this infancy must last is not the question.

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It will be longer according as this or that race is essentially weaker; but in none can it be perpetual, *except through the fault of the ruler*. For the longer men are well governed, the better do they understand what good government is; and a race as intelligent as the Bengalees or the Parsees is not likely to learn less quickly than Irishmen or Austrians.

Perhaps our readers may think we dwell too much on this topic; but for several reasons it seems to be urgently needed. No men have so fatal a power to paralyze effort for Indian good government as those who return from India with the airs of a traveller—

> The travell'd fool your mouth will stop:
> "I've seen; and sure I ought to know."

They imagine that by merely seeing what *is*, they are competent to dogmatize as to what *can be*. Upon an absurdly narrow basis they have erected an abnormal and untenable theory, and do not know that they are theorizers. *Other* men are theorizers; *they* alone have practical knowledge! Were not the English people characteristically weak in faith as to all general principles, they would never submit to the dominion which these travelled people (non-official or official) assume, to the great calamity of the empire.

But, again, it is often forgotten what a reverberation in India results from words of broad contempt spoken and written in England. Not quite a quarter of a century back, the Irish people were incensed to a most dangerous point by the invective of a peer who intended to wound, not them, but his political rivals. A like exasperation is caused in India when, with a view to nullify the solemn proclamations of the Crown (which are in principle equivalent to a coronation-oath, or to a public treaty), Englishmen can get a hearing from the public for a general disparagement of all the races in India. Not the least dangerous part of this disparagement is its vagueness. What is said may be true, if interpreted in one possible sense (in which perhaps alone the utterers will deliberately defend it), but is utterly false in the sense which it practically bears, and in which it is therefore understood in India. To say that the races of India are unfit for liberty is true, if by liberty is meant democratic representation and Parliamentary Government; but quite false, if it is meant that no races and classes among them produce *individuals* equal to and superior to the average of English office-holders and

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judges. And this is the practical point. No one, here or there, claims for India universal suffrage; nay, no one claims for them representative Parliaments, on however narrow a suffrage. No one, we believe, has yet moved for universal jury trial, or general municipal representation. In short, reform of the institutions is not that for which the outcry is made; but, the institutions remaining what they are, or nearly what they are, a claim is made *to share the Executive Government with us.* This is what was voluntarily and solemnly promised in the Charter of 1833, and as solemnly undertaken anew in the Proclamation of 1858. If it be proposed to summon a whole nation to the exercise of political functions, it is a valid objection to reply that the nation collectively is incompetent. But when it is only proposed to admit the picked men of their most cultivated classes into high office, then to inveigh against the weaknesses of *the race collectively* as an objection, is a gratuitous and illogical insult, not the less stinging for having truth in it, however little that truth is to the purpose. The gentlemen who so coolly tell us on the authority of their own experience, that "no good can come of the natives;" that we must "rule them well, but not admit them to rule," appear to know as much of cultivated Indians as Governors Lin and Yeh knew of our educated classes by experience of drunken and riotous English sailors. Men whose Indian lives have been passed within four walls, *surrounded by the mean and cringing part of the natives*, advised in law by clever and *ill-paid* functionaries, who cannot live without extra fees, suppose that the experience gained in police-courts or in revenue-collecting justifies them in passing sentence of political death against races which were civilized when our forefathers were barbarians. If we were now arguing in favour of the *principle* that natives ought to be admitted into the Executive, it would be proper to adduce the evidence (which exists in abundance) of the excellent native rulers whom India has produced in the past century, quite independent of English education; and we should infer that, much more now, must the classes which have access to our literature and are familiar with it, contain many men highly competent. But the argument is not in this stage. The English Government and Crown are committed too deeply to recede from the principle. They have explicitly pledged their faith; and the last time, in 1858, *with the express object of winning allegiance*, while many chiefs in Oudh and Rohilcund were still unreconciled. Even if Hindoos in high office proved not quite equal to English-

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men who might have been had, the evil would be a trifle in comparison with that of breaking faith with India. It cannot be pretended that our own ministers or judges at home are all and always men of so high morality or so great accomplishment as many others who are excluded, perhaps for party reasons. We can afford to concede in argument that the natives chosen for office by the Crown will be inferior men; for it would not the less follow that the appointments would be a great gain to the empire.

But in regard to judicial offices, all reasonable anticipation lies the other way. No duty is so difficult to a foreigner as that of administering justice, where he has to decide alike on fact and on law; and the greater the stress laid on Hindoo subtlety or perjury, the stronger the argument which doubts whether Englishmen are so well suited as native judges to discern what facts are true, when attested by Hindoo witnesses. The young Englishman is notoriously under the greatest difficulties, and by universal confession, the judicial bench has hitherto been the weakest side of our Indian administration. The advocates of the Company confessed it; and even let out the secret, that those who had been taken into the Covenanted Service and proved incompetent, were made judges, because they could not be dismissed. The unofficial English have attested it in a most remarkable way; by inserting in their ordinary contracts of trade a formal clause,* to the effect, that in the case of any quarrel arising, it was to be tried in the Supreme (Queen's) Court, and not in those of the Company. Our police has been pronounced "the bane and pest of society" by the Parliamentary Commissioners appointed to inquire into the practice of torture. Since the English magistrates, at least in Bengal, have been unable to restrain their own police from deeds the most atrocious, we have no right to boast of our own successes in maintaining justice, or to indulge any scrupulous fear that natives may be unsuccessful in high office.

Lord Macaulay, in his life of Lord Clive, reckons the faithfulness of the English Government to its promises, as among the chief reasons of its warlike successes. Side by side with this, it is

* The Supreme Court (of the Queen, in Calcutta), recently amalgamated with the "Suddar," or Chief Court of the Company, had a *permissive* jurisdiction. Merchants of Calcutta dealing with persons not within its local or ordinary jurisdiction, might, in matters of contract, bring them under it by agreement.

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melancholy to hear this invective of an accomplished native (attested by Mr Malcolm Lewin, late Second Judge at Madras)—"The word of the English was formerly, as it were, engraved upon granite; now it is written in water. So long as it was politic to keep faith with the natives, *who* could be more observant of faith than you English? Now that you have the country at your feet, you have thrown off the mask." The very same was the cardinal sin of Austria against Lombardy. In 1814, to win allegiance, she put forth promises, and the scheme of a free Constitution; but when once in power, violated every promise. Less perfidious yet equally fatal has been the policy of Russia in Poland since 1831. There the good intentions of the Imperial Government have never been carried into effect, because it did not appoint Poles, but only Russians, to execute them. Let us not deceive ourselves. Whether we look to the precedents of history, or to the intrinsic sentiments of human nature, we obtain the same positive reply, that strict faithfulness to our solemn engagements is the first and most vital condition of our winning the loyalty of India. Every fresh year of delay aggravates the difficulties in prospect.

In reviewing this position, we cannot but draw the conclusion, that those who utter invectives or jeremiads over the Indian *races* deserve to be scouted with indignation; first, because, like cowards in a camp who predict to the soldiers' defeat on the morrow, they do their worst to paralyze our exertions; next, because their words, re-echoing in India, produce national animosity and hatred; thirdly, because they are virtually urging the Crown to break its faith solemnly pledged to India. Our Government is in the position of a man who, in a fit of enthusiasm, has carried off by violence and married against her will a woman who is not perfect. For the husband to endure that bystanders shall taunt her with her failings, shall predict that he will never win her love, and assure him that it is useless or hurtful to keep his marriage vows, would be an omen that he is already despicably faithless.

The complaint is often made (perhaps as a plea for dispensing with all principle) that our position in India is too novel, too anomalous, to receive any light from historical precedent; yet the similarity of British India to the Roman Empire is so strongly marked, that no deep research is needed to suggest the comparison. Remarkably enough, the contest for a share in the Executive has its close parallel in the early struggle of plebeians against

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patricians within the walls of Rome itself. Then, as in the modern case, the subject class, or race, had no confidence in the just administration of the law, unless an officer of its own body were admitted to share the Executive Government: and the history of that struggle is instructive to us, as suggesting what ought to be our own procedure. Namely, it was found for many years together, that though plebeians were solemnly proclaimed to be *eligible*, they were in practice never *elected*. At length the law was demanded and passed, that of the two consuls, *one at least* should be a plebeian: thenceforward it was impossible to make the law a dead letter. The Executive was in fact, and not merely in theory, opened to the plebeians, the two orders were reconciled, and from this era is dated the prosperity and good government of Rome. Yet the Appii Claudii of those days were firmly convinced that nothing but calamity could come of it; just as the zealots of white skin now augur concerning the Indian community. If now we desire to keep faith with India, nothing is clearer than that we ought to imitate this most successful precedent. The Ministers who have to dispense patronage *ought to be relieved of difficulties* which are evidently too great for them. They should be *commanded*, and not merely *permitted*, to fill up a certain proportion of high Executive and Judicial posts by native Indians. If this were done, their good intentions could not, as now, be neutralized by the obstinate resistance of Indian office-holders. Those who now struggle successfully to falsify the word of the Crown, would be utterly foiled by an ordinance which dictated the number of posts which *must* be filled by natives. Thenceforward, that which it has so often been avowed ought to be done, would be really done; and the effect on Indian feeling would be magical. They would be convinced of our determination *to enforce faithfulness* on the governing officials. They would in ten years identify themselves with the British rule, and look to none but Constitutional means for further reform.

Had not the Government committed itself so positively to treat the Indians on terms of full equality with British-born subjects in the matter of appointments to office, another course might have been suggested by Roman precedent, which would have had great advantages of its own,—viz., to bestow an avowed "British citizenship" on select persons, families, towns, and classes, admitting them to the same political rights in India, as in our colonies are native. This would at once have brought the jury system, free counties, free parishes, free municipalities, into every part of

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India; would have allowed a larger influx of English settlers than is to be expected while jury trial is confined within the "Mahratta ditch" of Calcutta; and would have forestalled by two centuries the time of Indian Parliaments. It is no longer possible to do this under the same names and forms; yet perhaps it may still be done substantially. English Ministers have a recent precedent in the administration of Ceylon under the Crown; where the jury system was successfully introduced, while the officers of the Company were assuring us that the thing was impossible with the lying Hindoo *race*. Sir Alexander Johnson, the benevolent and enterprising Chief Justice by whose energy chiefly this result was achieved, began the change gradually, bestowing at first (if we rightly remember) tickets on respectable persons, which guaranteed their right to serve on a jury. But, with greater rapidity than had been supposed possible, the institution was extended to all, as far as the Supreme Court is concerned.

In 1811 it was enacted that every native tried before the Supreme Court for a criminal offence should be tried by a jury of his countrymen; and that the right of sitting on such juries should be extended to every native, whatever be his caste or religion. The beneficial effects of this measure have equalled the most sanguine expectations.*

If a *general* jury system has not been glaringly mischievous in Ceylon, where most degraded castes of men exist, all pretence is cut away from the fanatics of race for denying that a *carefully limited* bestowal of the right of jury may be highly beneficial in every part of India. In Calcutta, the principle has long been admitted; for the juries in the Supreme (or Queen's) Court have been chiefly natives. Moreover, the British settlers have been well satisfied with their verdicts.

All English statesmen avow that the institution of the jury, wherever it will work at all for the purposes of justice, is a political training to the people: this is a secondary result, yet one of high importance. But besides, it would greatly aid the introducing of English settlers in India. The second vital principle of the charter of 1833—viz., the right of Europeans to hold landed property in India—has been made of little avail by two difficulties; first, the arbitrary taxation; secondly, the absence of jury trial, except in the immediate vicinity of Calcutta. Lord

* We quote from the *Penny Cyclopædia;* Ceylon. 1836.

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Grey's Ministry rightly estimated the extreme importance of British settlers to the Empire and to India. How else can the industrial skill and capital of England open the sources of wealth in India? How else shall English sentiment—moral, political, religious—be diffused? How else shall there be a check on the evils which the unbalanced despotism of an Executive must necessarily engender? How else shall our Indian Minister at home himself know the real facts, if nothing is to be reported to him except through officials who dare not displease their immediate superiors? But while the Ministry of 1833 sincerely desired a large immigration from home, they ruined their own scheme by determining to *destroy* instead of to *impart* the political rights of British settlers. Mr Macaulay in his great speech pointedly avows the necessity of stripping them of every peculiar privilege; and in 1836, when in India, he earned for himself their animosity by trying to effect the enactment of this favourite idea. We do not believe that he intended to foster despotism; but, in fact, he played the game, so common to despots, of pushing their own projects under colour of extreme radicalism. True Constitutional government deals with things as they really are. It no more affects to give equal political power to classes very unequal in intelligence or in constitutional stability, than to put minors on a par with grown men. Irrational democrats claim absolute equality for everything in breeches above the age of twenty-one. Despots lay hold of this principle to break down sound Constitutionalism, by pretending that the classes which it establishes are aristocratic tyranny. Such exactly was Mr Macaulay's argument. Privileges to the Englishman (he said) are not freedom, but tyranny: the Englishmen would be "a new caste," "a new breed of Brahmins." But the eloquent speaker was not an advocate for absolute democratic equality in England. Why did he not call those who are Parliamentary electors in England a tyrannical caste? Why not denounce a House of Lords? Surely India, as England, is complicated by vast diversities in its population: a complicated constitution in politics is therefore the only rational one. The first step towards any political organisation, if men are not for ever to be as unconnected grains of sand, is to distinguish what classes, races, towns, districts, are competent for this or that political function. This is what everyone seeks to do, who is striving towards a noble freedom: while every satellite of despotism tries to depress the entire community to a dead level,

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under pretence that all inequalities are tyranny of caste,—*except* the superiority of heaven-born office-holders! Mr Macaulay's attempt, though foiled in 1836, was renewed several times; finally, in 1856-7, just when the great rebellion was impending, the stealthy effort to enforce it *all but goaded the planters of Bengal into a little insurrection of their own.* The summary jurisdiction of local magistrates, often very young ("boy judges," as the planters call them), will not be endured by British settlers. Summary fines are bad enough, but summary imprisonment may cause the total ruin of a great mercantile fortune, or, in such a climate, may be a sentence of death. To the *principle* of the jury our authorities have given their full adhesion; though in the scheme of 1856 the juries of the Supreme Court were to be at most *nine* in number, at fewest *three, half of them to be natives* [what was half of three is not clear], and a verdict of *two-thirds* was to be necessary for a conviction. What effect has been produced on the rights of British settlers by the recent amalgamation of the Queen's and of the late Company's Supreme Courts, we need a lawyer to explain to us; but we fear it deprives British settlers of the right of habeas corpus. It cannot devolve upon us to go into any of these details: we merely point out that if a good jury system is devised (whether of twelve or of three men,—or of six unanimous in matters of crime, and two-thirds of six in civil cases), it is an obvious wisdom to extend it to *select classes* over the whole of India, and presently to invest those classes with other rights also, especially the rights of county and municipal freedom. The importance of this is immense, and deserves to be dwelt upon.

If the question be put—Of all the innovations introduced by the East Indian Company, which was the most pernicious? we think the reply must be—*The total destruction of local treasuries* over the breadth of the land. In comparison with this monster evil, all other delinquencies seem to fade away. Communities can endure infinite misgovernments in detail, with terrible suffering to individuals; they may struggle through them, as through wars, pestilences, and famines, and come out less numerous, but not less capable of prosperity. But to divert all their local moneys into the central treasury, and leave no funds for repair of roads, bridges, and tanks (to say nothing of executing new works) is to drain their life-blood, and press them all down into barbarism and permanent exhaustion, except the parts which happen to be petted by the government of the day.

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Various large towns in recent years have availed themselves of enactments to levy local rates for sanitary and municipal purposes; as Kurrachee, Surat, Lahore, Poonah. These fully suffice to disprove the wild assertions which used to be made by Sir James Hogg, Mr Mangles, and others, that by reason of the indisposition of the natives to everything new, tolls cannot be levied for local improvement. The truth is palpable, that while the natives believe that a new tax is about to be paid into the treasury at Calcutta, they will rebel against it; but as soon as they find that it is *bonâ fide* devoted to their own wants, as in promoting drainage of towns, irrigation and traffic, they will pay as willingly as we. And India is something vastly greater than a collection of large towns; the country districts need local treasuries (such as we call those of counties and parishes), quite as urgently as do the towns. In so vast a deficiency (for the old roads of whole provinces have been overgrown with jungle, and lost, under the operation of our hideous transit duties, the abolition of which has not restored the roads), not one, but many, agencies of restoration are needed. With a view to these the first step is, to excite the voluntary activity of every English local officer by soliciting suggestions; the second is, to give every facility to voluntary (limited liability) companies to execute roads, works of irrigation, &c.; the third, perhaps might ere long be to invest all, who had the jury-right, with the full rights of local taxation by means of public councils. With regard to the first point, it is notorious that local British officers have been afraid to make suggestions to their superiors, as they knew that their advice would be unacceptable. To report (unasked) that a road or tank was needed, was to beg money of the Treasury, and was deemed very officious; and to desire that any portion of the money locally collected should be left as a thing of course to be spent locally by local discretion, would have sounded like treason to the ears of the Company. Hence the total apathy and servile passiveness of the entire mass of office holders, the very men who ought to have been the stimulus of prosperity to India. The Crown of Great Britain can certainly afford not to be jealous of its collectors of taxes. As *leaders* of the natives into municipal and county action, they might be invaluable, if they knew that their activity would be praised and honoured: but under the Company such activity only exposed an officer to reproof, certain failure, and non-advancement. With regard to private companies for objects of great public utility, it may deserve to be considered whether,

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besides granting them facilities for claiming reasonable tolls or other charges, they should not be guaranteed against taxation until their clear dividend was six per cent. on their subscribed capital: for *it is dread of arbitrary taxation* which discourages such enterprize; and we have seen even in England how unmercifully railway companies are taxed.

Hitherto, whenever the jury question has been mooted, as far as we know, a difficulty has been felt, or alleged, on the question, who are to be esteemed "respectable." The planters' organs say it must either be a pecuniary test, and then they will have none but zemindars, who are their prejudiced opponents, to try them; or they must make high caste the test; then they will have Brahmins as their judges, which they equally dislike. Brahmins and Sudras, they add, would not and could not * sit together on a jury. But all these difficulties will be manifestly fictitious if we conceive that the problem had been approached from what may be called the *Roman* side; viz., by the political question, On whom shall we bestow "British citizenship?" The reply certainly would not be, On rich men; nor, On men of high (or of low) caste; nor, On princes generally; nor, On merchants generally; but, *On our friends; on those who are most like us; on those who will understand how to use their privileges.* If this be made the clue, in guiding the bestowal of jury rights (which of course should include habeas corpus), there will be no practical difficulty whatever.

The Company was always afraid to look straight at the fact and avow it, that base or fanatical religion is the chief disqualification of native Indians for co-operation with us in good government. To gain among them a large party who should be our devoted friends was our obvious policy. We ought instantly to have adopted into full and practical citizenship all whose minds, position, and interests make them our natural friends and coadjutors. These are obviously, first, the native Jews and most of the Christians, especially Armenians, and "Eurasians," *that is*, the mixed race; secondly, the Parsees, whose religion is at bottom noble and pure, while their oppression under other dynasties makes them our firm partizans; thirdly, whatever Hindoo churches throw off the incubus of idolatry and break with the past, as the Brahmo Somaj in Bengal, founded by Rammohun Roy; fourthly, individuals among the Mussulmans.

* So we interpret "*Only conceive* their sitting cheek by jowl!" In Ceylon no insuperable difficulty has arisen from caste.

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In Roman fashion, our high officers might have been invited to recommend persons and families to the Crown (*in beneficiis deferre ad aerarium*) for the gift of English citizenship, if it were worth having! We fear that this would now be scorned by high persons; still, as Sir Alexander Johnson (we have read) found that his ticket was prized by the Cingalese as a testimony to their probity, so might it be prized by great numbers of the Hindoos, if bestowed by an officer of some note. Whole towns or villages might perhaps, by special recommendation, thus receive jury-rights; and the experience thence obtained would be valuable. Besides all this, great stress might justly be laid on a good knowledge of the English language, which, in the present abundance of cheap newspapers, is sure to imply some knowledge of our political state. What if this accomplishment were made essential to a town councillor or county councillor, and to constitute in itself a claim to jury rights? We do not presume to judge between the numerous possibilities here open; we principally desire to lay stress on two points—first, that nature and reason prescribe SELECTION *for special political privileges;* next, that those should be selected who have ostensible marks of *loyalty, intelligence,* and *agreement to our own code of* MORALS.

But how will this bear on Mohammedans? A majority of these, we fear, must be accounted disloyal, but that is no reason against their possessing high status as private citizens. Their polygamy is the point in which they come into conflict with our morality, and to require from individuals conformity to our own laws of marriage as a condition for admitting them into full political equality, appears to be reasonable and expedient. A Mohammedan who definitely renounces polygamy has triumphed over the weak point of his traditional religion; and since in every other respect the creed is noble and simple, there is nothing to hinder him, any more than the Jew or Parsee, from being our full equal in every social virtue. Nor is such a man likely to have fanatical hatred of English rule. But the topic leads us to the wider remark, that in suppressing widow burning and pilgrim immolation, and forbidding infanticide, we have not exhausted the moral good which it behoves us to effect by the direct action of the government. Whether depraving pictures and emblems are still exhibited to the eyes of the young in the temples and processions, we are not accurately informed; but when we have in London enactments so stringent as Lord Campbell's act, to save the eyes and mind of youth from pollution, surely to allow

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the same public defilements in India, because they are called "religious," would be a cowardly shrinking from duty. Not only so; but in the case of premature marriage it is our duty to *protect children* from the monstrous folly of their parents. At the age of six many a Bengalee girl is given in marriage, and if her boy bridegroom shortly dies she is and must remain a widow. When mere children become mothers, the race degenerates in size and strength; hence the puny forms of Bengal. Moreover, female education becomes impossible, if maternal and domestic cares are thrust upon a tender girl prematurely. If a father is not permitted publicly to sell his daughter for prostitution, why should he be permitted to make away with her in marriage at an age wholly unnatural, and to her very pernicious? But it suffices here to point out the principle, without suggesting any special enactment.

In general, to the opposers of privileged classes, whether in the cause of despotism or of ochlocracy, we desire to insist that there is not only much good, but there is no evil, in such classes, where the door of entrance into them is open. They are then as steps of a ladder. An aristocracy not fed by constant accession from below, is little less bad than an aristocracy of race. If the British-born, and *none but they*, were to have certain high privileges in India (whether of office or of jury trial), this would deserve Lord Macaulay's censure; though the remarkable thing is, that (unlike to him) the same English officials who are anxious to exclude non-official British settlers from the ordinary birthright of Britons, in fact strive to monopolise all high posts for their own white skin. This betrays that their animosity to the planters is not from a desire that Hindoos may have equality, but from a dislike of the check to despotism which is given by the presence of independent Britons. But privileges, whether of office or of social status, have nothing justly offensive, so soon as it is practically manifested that all natives *who can fulfil the necessary conditions*, have access to the privilege on equal terms with ourselves. Nor has a government like our own ever anything to lose by extreme frankness and plain dealing. Everybody knows that an Indian, however accomplished and otherwise estimable, will not be put into high office by us, if he is suspected to be an enemy of the British rule. In exacting an oath of office, we avow that we appoint none but *our own friends*. Why then should we be ashamed or afraid to say, that we admit none to political equality who do not measure social morals by our

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standard? If it is certain that no English minister would dare to recommend to Her Majesty for Secretary in India a Mussulman who had three wives, how much better would it be to lay down explicitly that this, and this only, is the thing to which we object in a man of that religion. If this were said plainly, some of them might be found to abandon the unnatural and pernicious practice; and then we could teach them that they are not excluded by black skin nor by reverence for their prophet. But now, while they believe themselves excluded, not by their vices or weaknesses, but by their blood, which they cannot change, or by our bigotry against their religion, we make them enemies of the British dynasty. The moral power of a foreign government to extirpate those immoralities with which its own people has no sympathy, is immensely undervalued by us. This power is perhaps the only redeeming point of foreign conquest. Indian Moslems, we hear, often act against polygamy by stringent fines in marriage-contracts. We frighten ourselves by the idea of "religious persecution," while we are astonishingly brave to confiscate men's national rights. Religion is not the unchangeable thing which many pretend. Among the Sikhs Mohammedanism and Hindooism have marvellously coalesced, and Indian caste has vanished. "Caste" in every country fundamentally means, the love of social distinction. This, no doubt, is innate to mankind; but its present form in India is rather new, and is not destined to abide long. One of our functions is to supplant that form by a better.

It is not only the English *Government* which has duties towards India; we, the *people*, in a private capacity, have our duties also, which are not fulfilled by missionary societies, at whatever height the efficacy of these may be rated. Before pointing out some of these duties, we would call the readers' attention to the stake which we now all manifestly have in India. The removal of the Company has thrown down a screen. Parliament now understands that our interests are bound up with those of India. What Ireland was to us for two hundred years, India is now; only that India is greater, and harder to reach. But it is now the weak point of our Empire, liable to become a fatal drain on our prosperity. If the finances of India be deranged, the stability of the Government is endangered; England is liable to be involved in difficult and expensive war in supporting it; *therefore* we cannot permit Indian finance to fail. This is to allow in fact, what is

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often denied in word, that the English treasury guarantees the solvency of the Indian treasury. Not only are those families who have members in India liable to calamity by their death or pecuniary losses, but all England will be doomed to vast sacrifices, and will be exposed to danger in many quarters, if ever the feud between us and India assume a form like to that which has animated Italy against Austria. This is what it must come to, if our insolent young men continue to call the Indians "damned niggers;" if our military officers and colonists use the stick against them, and our Government falsify its pledges. The magnitude of India is such, that it is capable of dragging us down by its mere weight from our highest prosperity, and handing us over to moralizers as one more topic of marvel and pity, if we fail in the great task which we have undertaken. Its difficulty lies in the uncongeniality of the people in morals and in mind; thence rises the question, Can nothing be done by us to remove this obstacle?

An excellent beginning has been made by the Government colleges and schools, and the further these can be carried the better. But the limit of financial supply is soon reached in Governmental action; and the really important thing is, to stimulate the natives themselves to promote the education of their own people. This is already begun, at least from Bombay and from Calcutta; but they might be greatly encouraged and aided by the voluntary co-operation of the English nation. We would not undervalue the action of Missionary Societies; but it is evidently impossible for Indians to feel complimented or gratified by the existence of such societies, or to welcome them as co-operators in a good and common cause. But every native Indian who imbibes even a small taste of European science and literature, knows that we have sources of strength, refinement, and elevation, from which his people is debarred: and he understands that in trying to impart the same to them, we are trying to raise them to our own level. A powerful voluntary society in England, which should take for its object, "to promote the intellectual, moral, and social development of the natives of India," would fall into natural and close alliance with the Parsee Institution in Bombay, and with the Brahmo Sumaj in Bengal. It would not only be welcomed with delight by intelligent Indians everywhere, but would gather up energies that now go to waste; would supply means, materials, and books, which might create new centres of exertion; and it might (especially if it received

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marked Government approval) stimulate well-meaning individuals in India, who have more wealth than knowledge, to become large benefactors of their own countrymen. But our readers may need to learn something concerning the two institutions to which we have alluded, in Bombay and in Calcutta.

The Parsees in India had fallen into the state of religious routine and ignorance which is to be expected in those who revere an ancient religion, the sacred books of which are in a dead language, while oppression and surrounding idolatry unite to crush their intellect. From this state of superstition and apathy they have been awakened by the *secular* instruction imparted in the Elphinstone College. For a while it was imagined by the ecclesiastically disposed part of the English, that the Government education was a great failure, productive only of pedantry and conceit. The young men had gained knowledge which they did not know where and how to use. But in 1848, two Englishmen, the late Professor Patton and Mr R. T. Reid, a barrister, suggested to them to form a literary society for reading essays and discussion, excluding controversies of religion or passing politics. In the first year forty-six students were enrolled; but within three months branches were organized for diffusing knowledge among the uneducated, by lectures and by periodical publications in vernacular tongues, or by public recitation of pieces of refined poetry. Their essays elicit discussion, and are often printed, as are many tracts. Essays early delivered on Teaching (by Dadabhai Naoroji, now Professor of Gujarati in University College, London), and on Female Education (by Behramji Khurshedji), gave a great and enthusiastic impetus to the Society. Schools were soon organized with the help of Professor Patton. Great liberality was elicited from four Parsee gentlemen. School books for girls were prepared, and so early as June 1851, a Gujarati Hindoo girls' school was actually opened. Grown-up women, by visiting the school, became convinced of its value; and so rapid has been the progress, that Professor Dadabhai, in a lecture on Parsee Manners lately delivered at Liverpool, avows, that though the struggle is intense, and almost bitter, between the old Parsees, who cling to routine and ignorance, in the belief that *it keeps them from English immorality*—and the new school, which would discard all that is irrational and revolting, and every evil practice borrowed from the Hindoos; still, in one point the triumph of the new school is complete. *It is now conceded by all, that women ought to be educated*, and become

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mentally co-ordinate with their husbands. Hitherto there has been naturally a want of female teachers. Nevertheless, Mr Dadabhai is confident that in another generation the entire Parsee community will have outgrown its weaknesses, and, both in manners and in education, will be undistinguishable from cultivated European nations. The results brought about in so very few years by the stimulus and direction of only two Englishmen (who acted *with*, not *against* the native element), is most instructive and encouraging. It is interesting to read their acknowledgment of the service done them by "Messrs Chambers, Edinburgh, and Messrs Parker, West Strand, London," in supplying them with stereotype engravings useful in the school-books. The subjects of the essays publicly delivered, are even more multifarious than those at a Manchester or Leeds Athenæum. From them we pick out as examples: "The Poets of India," "The Art of Electro-gilding," "The Disadvantages of Luxury," "Premature Marriage," "The Re-marriage of Hindoo Widows," "Gambling," "Use of Intoxicating Drugs," "Evil Consequences of Adultery and Licentiousness," "Female Ornaments."

The Brahmo Sumaj (which we believe means the Theistic or Monotheistic community) is of somewhat older date, as its founder, Rammohun Roy, is deceased more than a quarter of a century. But it has of late roused itself into new energy, and seems to be taking a step in advance of its founder. He left the question of caste among things *indifferent*, to be decided by the conscience of the individual; but from experience of its great mischievousness, the ardent minds of the present generation are assuming direct hostility to it. We read with much interest in the first number of the *Indian Mirror* (which is published by the energy and under the auspices of this community), that on July 26th last, the second daughter of Baboo Debendra Nath Tagore (one of their leading men, we understand) was married without any of the idolatrous and superstitious rites of Hindooism, with such solemn religious forms as Christians and Jews approve. The same gentleman is represented in the *Hurkaru* as an active and successful preacher. The writer (who assumes the tone of an opponent) says, that in opening a new school, Baboo Debendra Nath Tagore "delivered the preparatory lecture *with all the zeal and energy of an enthusiast*, and was heard with almost breathless attention." We venture here to extract part of a private letter recently written to England by a member of their church, which describes the progress hitherto made. Whether the enthusiasm

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of the writer has over-painted, we have no means of deciding; but the *tone* of the letter will be of itself an astonishing phenomenon to those who have been accustomed to believe that dark races are abandoned by the Spirit of God. He writes:—

The education here imparted is too mechanical. While it crams the mind with mere ideas and facts, it leaves the higher faculties and sentiments uncultivated. . . . It destroys faith in the absurdities of Hindooism, but does not impress upon the mind a positive idea of the true and good. . . . While tens of thousands are weltering in the mire of gross superstitions, the majority of those who do receive education, . . . far from setting examples of godliness in life, conduct themselves as doubters, mockers, or hypocrites. Amid so manifold evils Bengal has only one hope, even Brahmoism; that vital faith in the doctrines of love to God, and love to Man. We account it a display of God's loving kindness, that He has looked graciously on this wretched land, and vouchsafed to many the protection of that holy church. The salutary effects of the labours of our church are already manifest. It has kept many young men from falling into the vortex of scepticism, and the vices of intemperance, &c., prevalent here, and by establishing in their minds a steady religious principle, has enabled them to blend moral with mental improvement. It has helped the formation of many prayer societies, and encouraged the free investigation of theology in various quarters. It has established a Sunday-school for weekly lectures on doctrinal and practical Brahmoism, and a number of small friendly associations for the reformation of character, and the cultivation of brotherly feelings. It has also, though to a small extent, through the simple agency of instructions by brother teachers and husband teachers, brought education to the females. With regard to social reformation, it has recently initiated a movement for the breaking up of all connexions, direct and indirect, on the part of its followers, with the hurtful social institutions of heathenism, such as caste, early [premature] marriage, &c.

It is not requisite to say that we *think*—for we *know*, that the Brahmo Somaj is panting for English sympathy. Exposed to a most unequal battle, as a handful of men against millions, with whom is the inertia of old custom and great power of social persecution, a very small indication of sympathy from England is to them very valuable. So small a body, which counts its numbers by hundreds only, must soon find its funds exhausted, as also its resources in books and in variety of cultivation. But where there is much zeal, a little aid in suggestion, in money, and in books, joined with the stimulus of sympathy, might add great impetus to their action. Hitherto the difficulty presented has been a want

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of natives active and zealous to instruct. Now the supply seems to have risen as it were of itself. The Missionary Societies do not know how to use and direct the energies of these men, but, we fear, treat them as enemies. Is not this a critical opportunity, which ought not to be let slip, for pouring the tide of instruction from Bombay and Calcutta over all parts of India? *Both classes are eminently loyal to England; both have a fundamentally religious spirit.* We are not called on to impart to them religious aid (as to which we might ourselves fall into controversy), but to supply means for the purely intellectual or (as it is called) secular movement. Many of us have feared evil results from intellectual teaching unaccompanied with religious sentiment; many, again, have feared that knowledge may only make the Hindoos our more dangerous enemies. What then is a happier coincidence, than to find (what could hardly have been hoped) men at once loyal to us and religious, whose services will be largely available as instructors? If the Government here and in India, and the Queen herself, would distinctly avow the earnest wish that a society should be formed in England by our nobility and wealthy classes for promoting the intellectual enlightenment of all classes in India—especially those who most need it, the females and the country people—this would assuredly give a great impetus to a good work, and might be better to the Government in five years' time than an army of fifty thousand men.

Of the topics here presented to the reader, the majority, being new, need mature discussion. Only one has passed the stage of discussion, and needs to be immediately acted upon in order to save our good faith: the promise to admit native Indians into the Executive Government on equal terms. Above, we only touched on the higher offices, but the topic applies equally to the first act of admission. We have *not* fulfilled justly the pledge of 1833, by the competitive examinations. To require Indians *to come to England* for the chance of being elected, is not to treat them on fair and equal terms. What would our youths think of the boon of going to Calcutta in order to be examined, with a total uncertainty of being chosen? Evidently, as we ought to set aside a definite minimum percentage of offices in every grade to be of necessity filled by natives, so ought we to enact that for primary admission the examinations for a certain minimum percentage should be held in India, and only for the rest in London.

Nothing but the admission of black-skinned men into high offices will stop the infamous insults which our young men lavish

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on "damned niggers." At present the Queen and her Ministers are helpless to control these abominations, which, if not repressed, will assuredly convulse the Empire. Alas! it is not young men only who use freedom of aspersion. The British planters have earned the animosity of the natives, less, we believe, by sharply enforcing their contracts (where at least they had advanced moneys, and their fortunes were at stake), than by the deliberate invectives against the native character in which their printed organs indulge. Nay, Sir Mordaunt Wells, as Judge in the Supreme Court, has thought, that in addressing the jury, it belongs to him, not only to comment on a case before him, but to assail the whole Indian race in terms most offensive. Nations forgive injury more easily than insult. The unbridled tongue (not to speak of kicks and blows with the stick) cause us to be hated in India. Will our rulers never open their eyes to the gravity of this matter, and to the absolute necessity of crushing it with a powerful hand? Let not the reader think us too urgent in closing this rather long article by a passage from the "Notes on India," by Mr Russell of the *Times*, February 1858:—

Is there not some warning given to our race by the catastrophe of Cawnpore? How are we to prevent its recurrence? I am deeply impressed with the difficulty of ruling India, as it is now governed, by force, exercised by a few who are obliged to employ natives as the instruments of coercion. That force is the base of our rule, I have no doubt; for I see nothing but force employed in our relations with the governed. The efforts to improve the condition of the people are made by bodies or individuals who have no connection with the Government. The action of the Government in matters of improvement is only excited by considerations of revenue. Does it—as the great instructor of the people, the exponent of our superior morality and civilization—DOES IT OBSERVE TREATIES, show itself moderate and just, and regardless of gain? *Are not our courts of law condemned by ourselves? Are they not admitted to be a curse and blight on the unhappy country?* In effect, the grave, unhappy doubt which settles on my mind is, whether India is the better for our rule, so far as regards the social condition of the great mass of the people. We have put down widow burning, we have sought to check infanticide: but I have travelled hundreds of miles through a country peopled with beggars, and covered with wigwam villages.

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CORPORAL PUNISHMENTS, AND PENAL REFORMATION.

From "Fraser's Magazine," February 1865.

PERHAPS all nations in which the principle of Law takes deep root,—and these are the noblest historical nations,—are apt in their early periods to drive punishments to a cruel extreme, in the belief that by mere severity crime can be crushed. After this has manifestly failed, especially if any development of democracy take place, one may count on a strong movement against corporal punishments. So was it as regards Athenian citizens and Roman citizens. Though the old Roman punishments were thoroughly Draconian, yet in the later republic the scourge might not touch the sacred back of a citizen; nay, the citizen who was a notorious murderer was exempted from arrest until after condemnation: and could generally escape into exile, if he pleased, before the verdict could come forth. Only when the safety of the republic itself was at stake did the executive government bestir itself to seize the persons of detected conspirators; and this was done by a violation of the law, and with danger of after punishment recoiling on the head of the executive officer. We happily have not reached that stage, which was one teeming with calamity and ripe for bloody revolution. Yet it is impossible to overlook how violent and extreme is the change which has passed over English sentiment in half a century. It has coincided with a time of peace, and a time of steady development of political influence, first of the middle classes, and next, of the artizans. Not only under the Tudors and Stuarts does the coarse ferocity of punishment disgust the modern reader: even in the last century our criminal code appears nothing short of barbarous. The mitigation of it which began with the labours of Sir Samuel Romilly was most necessary, and the whole movement laudable; which has been continued down to the present day into schemes of Reformatory Prison Discipline, likely to yield precious fruits of philanthropy. It has been a great triumph to establish the principle, that reformation of criminals is an object which cannot be overlooked without damaging the public safety, which alone used

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to be thought of. Nothing that we are about to write will undervalue the noble labours of this recent era, though we have some jealousy, lest in Reformation Prevention be forgotten. We have an immediate eye, not to what has been done, whether legislatively or executively; but to that to which the whole democratic movement seems to tend. The attack of the press is ostensibly and chiefly made against the punishment of Death, but some of their most trusted arguments virtually involve all corporal punishments; which is equivalent to exploding all inflictions whatsoever on those who are hardened against opinion and have no property to sacrifice. We have a high respect for the judgment of some who think that the law of Tuscany might by judicious supplements be safely adopted in England; nor is this article directed altogether to maintain the necessity of capital punishments. It does but maintain the inadequacy of certain current arguments against them, and the mischievous tendency of such arguments; it does but argue that, in proportion as the death punishment is relaxed or limited, in the same proportion must other corporal punishment be increased.

At the same time it may be permitted to clear the way by avowing our strong and entire abhorrence of the law which treats certain forms of crime as simple murder. The offence of duelling has at all times been felt to be morally quite different; because the passion which impels the combatants, whether it be pride or shame, does not imply any such depravity that they cannot afterwards be trusted in society. In fact the actual slayer may have fought unwillingly, being the party challenged. For these reasons, and on account of the presumed fairness of a combat, where "seconds" regulated the details, the sentiment and conscience of the nation was always against the law which treated the death of a duellist as a murder by his antagonist, and implicated the "seconds" as accomplices of the guilt. Yet it might there have happened, and did happen, that the slayer was dangerous to society; —if he was a bully skilful with his weapon, ready to insult quiet men, and force them either to bear his rudeness or to meet him in mortal combat where inferior skill put them at a disadvantage. The increasing intelligence of the nation seems to have exploded that barbarous mode of wiping off affronts and white-washing a soiled reputation. In an opposite class of society, and in the other sex, a very different offence is often perpetrated, which our law visits as murder; namely, infanticide, perpetrated by a mother in hope of concealing the birth. However shocking to our feelings

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is so unnatural a crime, it is wonderful how any thoughtful person can confound it with that of common murder. A man who slays another from malice, or in order to plunder him, is dangerous to all, and cannot thenceforward be allowed to go at large: but the woman, who, to hide her shame, destroys her offspring, is not hereby a pest to society and incapable of trust and service. A powerful passion has driven her to a deed which inflicts on herself a dreadful pang. The natural strength of maternal affection is the measure of the punishment which she has borne, in the agonizing effort to avoid exposure of conduct, which in the eye of the All-Seeing may be rather a grave imprudence and a weak generosity, than a guilt marring the whole character. The second deed is worse than the first; yet surely ought to cause in us far more of pity than of hatred, while it can in no way suggest fear. How it happens that to this day the law is merciless and undiscriminating towards such women, we cannot understand; unless it be, because the victims of its severity are never aristocratic persons. If the guilty women were daughters of peers, and the duellists had been ordinarily of the class of draymen, the democrat (we fear) may justly say that the duellist would have had less sympathy, and the infant slayer far more, in judicial and legislative circles. Such considerations perhaps exercise an unseen and unsuspected force on the minds of millions, and lend animosity to the movement against capital punishments. It is to us evident that the whole subject needs to be reconsidered; and without presuming to dictate what conclusions will be ultimately reached, we desire to contribute materials of thought which may aid to throw light on the question and on that of corporal punishment generally.

First of all, let us dwell a little upon a primary doctrine. But for the long peace which we have enjoyed on our own soil,—for all our wars are fought abroad,—a perverted and mawkish interpretation of the sacredness of human life could scarcely have attained its wide currency among us. Erroneous religion has also acted a large part to make men grieve more for the cutting short of a worthless and wicked life, than for the loss of innocent and noble energies. The religious error, as might be expected, is not enunciated in plain short words by those whom it influences; for so to enunciate it, is, to refute it. They talk of "a sinful soul being hurried unprepared into the presence of its Maker," as a very shocking event; and virtually impute to those who thus "hurry" it the crime of securing its everlasting misery: but they

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do not say plainly, that it is the duty of society to endure all the evil consequences (be they what they may) of keeping in the midst of it one who is far worse than any wild beast, lest otherwise they expose him prematurely to the cruelties of an Almighty Judge. This is what they must mean. If they did not think the Divine sentence frightfully disproportioned to the man's crimes, they would not shudder at the sentence of human law, on the ground that it calls into immediate operation the severities of Divine law. We cannot doubt that such doctrine is dangerously undermining our whole judicial system. A creed which men believe, and heartily approve, tends to political consistency and strength, even when it has no small measure of austerity or cruelty; but a creed which people believe, but shudder at, distorts the judgment, and produces perverse action. We wish to know, whether it is seriously maintained, that a "soul" while in this life is *not* in the "immediate presence" of its Maker; whether He is so limited to "the other" world, as not to be strictly present in this. We wish to know, whether people seriously expect us to take measures for saving criminals from the Eternal's excessive severity: if they do not mean this, the whole topic is irrelevant, and they have no right to fan the smouldering fires of superstition in the public heart by vague utterances, more effective for their vagueness. As for being "hurried unprepared" into the Divine presence (in which every just thinker knows us all always and necessarily to stand), the great difficulty is, to know how to produce in guilt any fitness for such a presence. Indeed the great argument for capital punishment in certain cases is, that the guilty will have no choice but to become more guilty still, and therefore less "prepared," by being left to prolong a disastrous career.

And this leads to the question, what it is that makes human life in any case sacred. It is not because that life was given by God; and because we must not take away life which we cannot give; for this would equally apply to brute life, and could lead to nothing but Brahminical scruples against killing an insect. Nor is it, because man has an immortal soul; for this argument would lean wholly the other way. If it had any force at all, it would rather justify the well-known orthodox reply to the general, who feared to massacre the heretic population of Beziers, lest he unawares slay good Catholics among them: "Kill them all: God will know how to distinguish His own." The Getans (Γῖται ἀθανατίζοντες) according to Herodotus, and the Jews according to

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Tacitus, despised life, *because* they believed in immortality. "Animas prœliis aut suppliciis peremtorum, æternas putant: hinc generandi amor et moriendi contemptus." To take away ten or thirty years of a life which is never to be renewed, is certainly inflicting a direr forfeit, than to shorten a life on earth and add just so many years to a life in heaven. The very men against whom we write, show a secret sense of this; for if a pious person be killed by a ruffian, they have no visible grief for the murdered, whom they regard as a simple gainer by the event (concerning which it is not ours to pronounce); but if the murderer is about to be executed, they discover, in his case only, the extreme sacredness of human life. The life of the guilty is made out to be more important than the life of the innocent: the two would at least be on a par, if immortality were the ground. But immortality does not ennoble the individual, if it may be an eternity of sin, without hope of amelioration; nor can mere immortality, as such, make the pulsations of animal life deserve to be more cherished. Evidently and undeniably, from the *moral qualities* in a human being, and from them alone, flows the sacredness of human life.

The whole worth of the human being, to himself and to others, depends on his moral qualities. Not only is it true that Man is made for virtue, but society cannot exist, except by aid of certain relative virtues, which must be upheld at any price. The most elementary of these, is, the mutual respect paid by every member to the rest, as regards life and the means of life. Perhaps nothing brings out so clearly the inevitable connections of action, as a state of war. Let us suppose a foreign power to resolve to make a lodgment on our soil. This surely is a hypothesis to reason from; for it is matter of frequent occurrence. Not a year passes without England taking such a step herself,—in Japan, or in China, or in New Zealand, or in Caffreland, or in the Crimea, or in the Punjaub, or in Affghanistan, or in Burma. She has, or thinks she has, good reasons: so France has good reasons for fixing herself in Rome, in Cochin China, in Mexico. Suppose then, we again say, that France, Russia, or United Germany, should believe they have good and wise reasons for occupying Bristol, or Plymouth, or the Isle of Wight; and should send an armament of invasion, should overpower the first resistance, and take military occupation of a district. Except the small society of "Friends" (with whom we are not now arguing), all Englishmen would avow that every foreign soldier who invaded our

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soil with arms, had by the very act forfeited his right of life as far as we are concerned. He might, or he might not, have slain any of our people; but he came prepared to slay. We do not impute to him any great guilt for this. He did not plan the expedition; he is not responsible for it. If he is responsible for anything, it is, for having entered a military service, in which he is expected to fight without knowing why, and without the slightest moral guarantee that it will be in the cause of justice. If this be his sin, it is not very peculiar: he has a vast host of fellow-transgressors, whom we cannot afford to brand as murderers: and after all, it is most likely that he was seized and put into the ranks by force, and made to take the military oath under pain of being flogged to death if he refused. Thus it is impossible for us to pass any deep and bitter condemnation on the invading force: nevertheless, we should feel it our duty to direct deadly weapons against them, and capture or drive them away as we best might. We should not desire "to kill ALL the poor devils," as a great military authority said on a certain occasion; but just to cut them up enough to discourage repetition of the act. Whether many or few of them were killed, could in no case hurt our consciences, though we should wish rather to capture than to kill. Here is a clear disproof of what is often pretended, that in killing a criminal we assume the prerogative of the Supreme Judge, as though we could measure the intrinsic guilt of his deed. In the case of invasion, we are so far from doing this, that we may pity the very enemies whom we slay, and may believe them to be men of at least average virtue,—men who might to-morrow be our friends. A soldier, who has many excellent qualities, but is ready in five minutes to send a bombshell through our roof, that will kill the inmates of the house, cannot expect us to refrain from shooting him through the heart, if we can, in order to anticipate his deadly attack. He is at the moment vastly more dangerous to our community than a tiger; and can no more be embraced within the operation of our ordinary moralities than if he were the fiercest of wild beasts. We do not wish to kill him, if we could capture him; for his hostility is believed to be transitory and accidental; coming, not out of his own heart, but from forces at work outside of him. When separated from his army and its discipline, he is restored to his own morality; and this is the consummation which we would desire. But if a fanatical resolve "to conquer the English" were his ruling passion; if he were a man of influence, likely to inflame a war, or a man of

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military genius, likely to make it more full of danger and of suffering to us; we should justly rejoice that a rifleshot had selected him, rather than an ordinary soldier, for its victim; and if he were slain, where by a little more management he might have been captured, we should think it so much the better. All this is matter of course, and of notoriety: yet many who fancy themselves to be moralists, and to have some right of religious dictation, do not see that they must *either* with the Quakers, condemn all defensive war, abandon the ideas of nationality and patriotism, and lay themselves and families prostrate before every pirate and brigand; or *else*, admit that every national existence has a right of self-defence, in presence of which the life of individuals is extremely cheap; not the life of criminals only, but that of superior and very valuable men. This right of self-defence exists as energetically against pirates and brigands as against soldiers of a regular army; and equally against single ruffians as against bands of robbers. The right of taking the life of assailants is vested in us by their assault: it is for us (that is, for the national organisation) to inquire how far it is expedient to use this right. *Their life has lost all sacredness* by their own act. If we regard their death as necessary to our security, we have a full right to take their life. Whether it be, or be not, necessary, is matter for calm deliberation; but to talk about the "sacredness of human life," as though this could in the slightest degree aid the inquiry, does but throw dust into the eyes.

Another topic on which some much dwell, is, that the executing of criminals brutalizes society. If they would say, that soldiers are brutalized by fighting in a war of which they cannot clearly discern the moral justification; or by bombarding cities full of non-combatants; we might find it hard to give any other reply, than that, after all, they do *not* seem to be "brutalized." It may be a very insufficient justification for firing a village or bombarding a town, to say, "My commanding officer bade me to do it:" yet,—so complex is our moral nature,—the man who honestly believes this reply to exculpate him, is by the very fact saved from demoralization while perpetrating a crime. If to take the life of a criminal brutalizes the agents or the spectators, it must either be because the sight of death itself is brutalizing, or because the spectators come to enjoy it as a keen excitement and as a carnival of ferocity. Rate as high as you please the horror of the gallows, the spectacle of one death without the sight of mangled limbs and streaming blood is a mere trifle compared to the horrors in

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the smallest battle that was ever fought. As a spectacle to the eye, it is puerile to compare the two. Yet the question remains over, whether our publicity of executions is not a needless evil. Some of the American States have retained capital punishment for certain crimes, but inflict it before a select number of witnesses; that is, before special officers, and a sort of jury or committee taken from the public at large. Such a scheme would remove most of the nuisances now complained of, and make it possible to invest the deed with religious solemnity; certainly the very opposite of demoralizing. If indeed men have made up their mind, that every executed criminal is a cruelly murdered man ("murdered by legal strangulation," according to a phrase becoming current), they readily persuade themselves that all the spectators of an execution learn from it to hate the law, and thus unlearn what to the vulgar is the beginning of all morality,—reverence for things established. But the writer who thus reasons, is himself a fountain of this demoralization, however unwillingly, and whatever its amount. He does his best to teach the vulgar that the law is very wicked; and infers, that unless the law be altered, the vulgar will be demoralized by it. It may be doubted whether any large part of the spectators of an execution think the punishment an injustice: for surely to an ordinary man, who held this sentiment, the sight of the execution would be simply unalloyed pain, from which he would keep aloof. The persons who would run to see it, while condemning it as unjust cruelty, must be very morbid, and mere exceptions in the mass.

But what do the same reasoners say concerning the infliction of flogging? They have the very same objection to it, as brutalizing the inflictors, degrading and demoralizing the sufferers. As regards the former, all depends upon the satisfaction of the conscience. To us it appears an obvious certainty, that whatever punishment is believed to be righteous,—whether the whipping of a child, the shooting of a soldier, the constraint of the treadmill, or whatever else,—is wholly free from the least tendency to brutalize the officers who inflict it. Those who impute this tendency, carry into the argument their own view of the punishment as excessive and unjust. Each virtually reasons: "*I* could not flog or hang without being brutalized; *therefore* such is its effect on the executors of the law." It is, or was, a popular error, that surgeons and butchers are forbidden to sit on a jury, on the ground that their occupation demoralized them. To imagine a public executioner to be brutal, is natural and reasonable when

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the notoriously innocent are his victims: but to imagine it, when those only are punished whose guilt has been established by the fairest of trials, is a wild delusion. We dismiss as absurd the argument, that flogging, when judicial and well-proportioned, can demoralize the administrators; but we claim attention to the fact, that the objectors to the punishment of death will go on equally against other corporal punishment. So too as regards the criminals. It has hitherto been most difficult to discover what due punishment of felony will not demoralize the felon. There is an amount of severity,—whether by whippings or by hard labour, especially when no after re-establishment of reputation seems possible,—which does undoubtedly demoralize. This topic is never to be overlooked. It is more than ever under practical study at this moment: but meanwhile, it is among the arguments which make the punishment of death in certain cases merciful, as being a far less evil than to keep a man alive in a *hopeless* condition, under which his demoralization must be expected to increase year by year. Under our old laws, whippings were practised in a very summary way, and perhaps less degraded men by reason of their frequency. In the military and naval service the ferocity of flogging has long since disgusted the public, and has probably been among the influences which unduly exploded the punishment for civilians. Yet experience has already led to a partial retracing of our steps. The dreadful ruin of young boys, who were condemned to imprisonment in the company of old felons, for puerile offences too grave to be passed by, led to a renewed power of summary whipping by magistrates; we believe with very good effect. A more signal and undeniable instance of the benefit of this punishment as *deterring from crime*, is in the offence of shooting at the Queen; which was committed apparently, in one case at least, without ball, as a good joke; and in another, by a youth whom a jury pronounced insane. But after Parliament had enacted whipping as the punishment of thus frightening her Majesty, the offence was not repeated. We cannot hesitate to believe that all outrages on women ought to be punished by the severest whippings; except that violence of a husband against a wife perhaps cannot be thus punished with due regard to the woman's interest, unless the law is prepared to pronounce her *ipso facto* divorced by the sentence. Society must feel its way onward in this direction; as it is doing, under the philanthropic zeal of practical officers, not in this country only, but on the Continent and in the United States. But no good result can be

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attained, if we are to listen to the shrieks of the democratic press against whatever touches the flesh of the criminal. So many fallacies are constantly poured out upon us, that we cannot hope to analyze them all.

It is but a short time back, that a man accused of killing his wife, and, according to the evidence, apparently guilty of it, was acquitted by a jury. A very respectable liberal newspaper, commenting on the case, pronounced the man's guilt to be clearly proved, treated the jury as having perjured themselves in the verdict, and nevertheless justified the jury, on the ground that they must, no doubt, have disapproved of death-punishment, and therefore gave a false verdict knowingly, in order to save the man's life. The inference drawn was (as usual), that the wicked law ought to be altered. If only the unscrupulous and base argued thus, it would not alarm us; but when such logic pervades the moderate and thoughtful, who desire to be eminently humane, it does alarm us. There is here no opening for the debate, what are the functions of a jury? Grant that when judge and jury differ on the question, *What is* the law? (as often happens in political trials), the jury has a right to regard the judge only as an expert counsellor, not as possessing power of dictation. But that topic cannot here come in. The jury here agree with the judge as to what the law enacts, nor does anyone ask them to decide that: their sworn duty is to ascertain a fact, whether a man did a certain action, knowingly and purposely: yet writers assuming the tone of moral instructors can justify a perjured verdict, by considering what would be the legal consequences of a true verdict.

Of a like immoral tendency is the medico-legal development of the doctrine of Moral Insanity; which, within its own limits, may be very sound, or at least could not fall to us to refute. As we understand its exposition in Prichard's *Treatise on Insanity*, which first brought to a focus, for popular understanding, the doctrine beginning to obtain among the physicians, there is a form of purely physical insanity which exhibits itself in moral perverseness, while no distinct intellectual aberration can be traced: and if it be asked how such insanity differs from simple wickedness, inasmuch as it is an old saying, that every bad man is insane, the reply is, that its cure is to be found in agents purely physical, but not in moral treatment. In an extreme case all dissent will vanish. An amiable man who had played a long part in Parliament was made a nobleman in old age, not

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many years back. In his new character he found himself comparatively inactive and useless, and (whether from this or from other causes) became aware of despondency creeping over him, with an unnatural disgust of life. He revealed to his physicians the thoughts of self-destruction which began to infest him, and by their advice submitted to be debarred from every instrument which might be turned to a deadly purpose. He even ordered the bell ropes to be removed, lest he should strangle himself with them. In spite of all his care he was found one day hanged to his bed-frame by his silk pocket-handkerchief, and entirely dead. Now if the propensity had been to kill his wife or his son instead of himself, and he had taken like precautions against it—in vain; we should all no doubt pronounce his deadly act an insanity, not a murder. But it is one thing to admit that there may be such cases, which deserve from society no moral indignation, but only compassion: it is another thing as soon as we hear of a great and terrible or very unusual crime, to jump rapidly to the conclusion that the perpetrator is not wicked, but insane. Even the general English public, by its advance in gentleness and humanity, is liable to the delusion of underrating the violence of spiteful passion and the cruelties of avarice, which have no response within their own bosoms. But medical men have besides a peculiar bias of their own. As the tanner thought, "there was nothing like leather," so they are apt to think, there is nothing like medical treatment: and we have had occasion to remark in private life, that as soon as the vicious eccentricities of an individual are named, they will, without one particle of evidence beyond the fact of the vice, infer confidently that he is insane. Unless a severe check be put upon the abuse of this doctrine, a total overthrow of judicial punishment must follow. Even without a formal avowal of Necessarian doctrine,—without opening himself to the unanswerable retort, "If men are under a necessity to stab us, we are under a necessity to hang them,"—the bland and humane practitioner, familiar with the effects of external treatment, has a large repository of plausible argument against remedies other than those in which he has professional experience. No one can deny that if a man steal because he is starving, the remedy is, not to flog or imprison him, but to feed him. Without venturing on to the abstract proposition that the right to life is prior to the right of property, society can here well afford to be merciful; for if it feed the hungry, it has a natural right to insist on prescribing work to him; and to be subject to

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this is so disagreeable, as to deter needless repetition or imitation. But if the theft committed by the hungry man were defended on the ground that during hunger every man is "morally insane" and without control of himself; and that on this ground the theft must not be punished;—the consequences of admitting such a defence would be vast and fearful. Hunger is not the only violent passion, nor by any means the most impulsive. In fact whatever it has of impulse is by awakening moral indignation in the sufferer against society and its institutious; but a tribe of savages whose food has failed will die of hunger as patiently as by pulmonary consumption or any other disease. "Anger is a short madness," by universal admission. It is "moral insanity" in the strictest sense: for it does not imply any morbid error concerning *facts*, but solely some derangement in the moral balance. There can be no doubt that physical remedies, if they could be duly administered on the moment, might still many violent and dangerous passions, such as anger or lust. For instance, a shower-bath suddenly descending on the head might, whether by its chill or its terror, produce a total collapse of the violent passions: but it would be extravagant to infer, that (such remedy not having been applicable) crime committed during the paroxysm is not to be afterwards punished. The sole question here is, whether punishment will have any tendency to deter. In fact we punish intelligent animals for offences which it would be mere cruelty to punish in the less intelligent; namely, when they have too little sense to make the punishment of avail. So, if it be ever so true that a human being is insane, we do not by the admission entirely shut out all right or propriety of corrective punishment. We should in that case spare moral indignation, as in whipping a dog; but it by no means follows that we ought to spare the whip. It appears to us a common error in medical witnesses, who have experience in treating the insane, to assume the reverse of this in every sentence which they utter.

At the same time there is another topic, summed up in the Aristotelic allusion, "double punishment on drunkards:" which we by no means press to the letter. The idea is, that the drunkard, in allowing himself to be made drunk, allows himself to commit a long roll of possible crime. But of course the true question for the legislator is, whether any punishment of drunkards will tend to diminish crime: and long experience decides that it will not: that the punishment can only be of use if

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directed against those who enrich themselves by drunkard-making, and that prevention alone is to the purpose as regards the drunkard himself. Nevertheless, there is weight in the general principle, that if moral insanity be pleaded in defence of a crime, a further question arises, Was it the offender's own fault that he became morally insane? Moreover, if the insanity be of the gravest and incurable kind, no sacredness of life can on this ground be claimed for a criminal; when in fact it does but proclaim his life to be the very opposite of sacred,—cheap and worthless, to himself alike and to society; most painful of all to those to whom he would naturally be dearest.

The general result which is here pressed, is, that medical testimony concerning insanity can only in the rarest cases be of more avail than the evidence of any sensible man; while medical theories concerning the exemption of insane persons from penalties are far better scouted altogether (considering the enormous latitude which the word Insane receives with physicians) than treated with any particular respect. Our moral sentiment towards the perpetrators of offences will vary according to our idea of their sanity; but that sentiment is no guide to the question of penalties, which is to be decided on totally different grounds,—partly, by considering what will operate to deter, and, next, if we have found a penalty that fulfils that condition, by enquiring whether the evil to be guarded against is great enough to justify the penalty.

Here again, the necessary and approved penalties of war have their instruction for us. What may seem more venial, than for a tired man to fall asleep? Yet if a sentinel on guard fall asleep, he is condemned to be shot. It is not requisite to assume the necessity and propriety, as a universal law, of so extreme a penalty: it suffices, that by unanimous consent an offence which at other times would be trifling, must be punished with a severity enhanced in some proportion to the magnitude of the calamity which it may entail; and this, while we are fully aware that the penalty can but partially obviate the tendency of excessive weariness. In fact, if we consider how this rigid enactment operates, it will be seen that its indirect effect is immense, and highly valuable. The promulgation of such a penalty is the sternest warning as to the gravity of the evil; and puts into every soldier's heart a high-strung sense of the sentinel's duty. The public opinion generated in the whole service hereby adds tone and energy to each one. Military

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men will frankly say, without dreading contradiction, that when a great cause and the lives of thousands are under risk, and the death of hundreds by disease or by the enemy is a clear certainty, the loss of two or three sentinels,—if so many should be shot for a sleepiness as inevitable as the most overpowering "moral insanity,"—is not seriously to be grieved over, by the side of the many valuable lives which avoidable neglect might sacrifice. Any *innocent* sentinels who thus perish, must be counted as among those who die for the good cause; which their death certainly aids to sustain.

In this same example moreover we have the refutation and overthrow of another broad fallacy which is often obtruded on us. It is said, that in every case of imputed crime, it is better that any number of guilty men should escape, than that one innocent man should be condemned; and hence, that the jury should not condemn upon their own moral convictions, but only upon full demonstration. (What can be accepted as "full demonstration," until error and perjury of witnesses is impossible, is hard to say.) But this often-repeated dogma is manifestly false in all the most deadly cases of wide-spread crime. When whole counties of England were invaded by the frightful villainy of parents poisoning their children in order to defraud Burial Clubs of a small fee, to terrify such dastards by an energetic administration of the law was as important as to stay a plague. To encourage them by the example of criminals escaping through legal technicalities, was a monstrous evil. In such a case, if through human infirmity and error, without any malicious intent, a jury condemn an innocent person, that innocent victim may justly regard himself as suffering for his country's good as truly as if he fell in battle; and the evil is far less than that of allowing impunity to heartless crime. Never could the odious system of murder and robbery by the Thugs in India have been put down, had any technical scruples or any fine balancing of bare possibilities been allowed to outweigh the honest convictions of common sense. That common sense may err, is most true, and much to be regretted; but so may every tribunal err, however fenced around by technical logic. Whether it be better for the guilty to escape, or for the innocent to be unwittingly punished, depends on the magnitude of the evil to society from the former; and cannot be settled by any abstract maxim.

A topic which necessarily presses much on all philanthropists, appears to be little considered by the public, by the legislature,

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or by the tribunals; yet it cannot be suppressed in the future. We mean the effects of punishment on the relatives of the criminal. In every case these are of course painful: they may be disastrous. The law cannot wholly cure the evil, but may aggravate it: legislation, instead of driving it to a maximum, should seek its minimum. *Long* penal inflictions seem to bring the evil to a maximum, especially when accompanied by transportation. Put what has been a very common case. A labourer who sees how the gentry love "sport," has occasionally accompanied a shooting party and learnt the use of the fowling-piece. Wild birds whom the lord of the manor does not rear and feed, seem to him public property, whatever the law says against this doctrine. He joins a party of poachers one fatal night. Gamekeepers stop their progress. A quarrel ensues. The guns, loaded to shoot birds, are discharged at the bird-keepers, one of whom is killed. Which gun proved fatal, nobody knows: but when three of the poachers are arrested, one who is an old offender is selected as most guilty; but all three are transported, seven years being the shortest period. The wife of the least inveterate culprit is thus deprived of her husband for seven years,—to her a punishment of the most ingenious refinement, *far worse than if he were hanged.* She, with a young family, is made a pauper; and is forbidden to find a second husband, while her first is at the antipodes. Seven years of estrangement do not cement his affections to her, nor hers to him. No love-letters pass between them. His children cannot be taught to love their father. When his time of punishment is ended, she receives no notice of it; perhaps knows not whether he is alive or dead, or whether he intends to return to England. Perhaps he has chosen to marry in Australia. Or, on the other hand, after an interval he comes back, not improved by the society of old criminals; and, if meanwhile his wife and family have at all prospered, he claims them as his own, and throws himself upon them, having thoroughly learned to hate labour. Distant transportation made these terrible evils more manifestly inevitable; but we fear they must remain under every system of long sentences. A woman struggling to feed a young family in Berkshire or Essex, even if not shut up with them in the Poor-House, has but little chance of sustaining affectionate relations with a husband, who is put to hard work for long years on some corner of our coast. It could not occur to us to wish to dogmatize here as to the remedy: we merely wish to excite our readers to reflect on the evils con-

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tingent to punishment. If the law, for its own good reasons, separate man and wife for seven years, is it not bound to go farther, and pronounce a legal divorce? We cannot here enlarge on the topic: but it is certain that Protestant England will have to reconsider fundamentally her laws of marriage, as Protestant Germany and North America have done. Up to a recent date, we have blindly followed the "Canon Law" of Rome, and justify it by the slavish and unintelligent interpretation of a single text.

It is vain to talk of the evil of "degrading" a criminal by flogging him, if we degrade him by penal labour, subjecting him to a very ignominious and tedious slavery. It is vain to say that whipping demoralizes, until we have a system of effective and severe punishment, clearly free from this danger. When a man has committed an act, which cannot without fatal result be left in impunity, the first grave question is, whether the act is such as to make us hopeless of his recovering the normal condition of a trusted freeman in society. If we are hopeless of this,—then, in a *primâ facie* aspect, the natural inference is, that the sooner he is put out of this world the better for him and for us and for those nearest to him. There may be reasons on the other side; but this, we say, is the natural and *primâ facie* inference. If, on the other hand, his offence, however grave, does not suggest imminent danger of its repetition, nor any inveteracy of crime, a short and sharp chastisement may suffice, and is alone suitable. Nothing can be short and sharp but inflictions on the skin; and nothing is better suited to repress crimes of insolence or animal passion. Lastly, when the causes of crime are inveterate, and the restoration of the criminal, though not hopeless, requires the lapse of years and long patient training, which must not be made other than irksome and highly disagreeable, his entire *status* is changed, he is totally disabled from fulfilling any of his relative duties, and he forfeits all the rights over persons which he holds only by virtue of those duties. A felon destined to long penal servitude cannot fulfil a father's duties, and no one is so weak as to imagine that his commands concerning his children deserve respect. If strangers maintain his children for seven years, he cannot with any reason expect at the end of the period to stand towards the children in the same relation as if all that time he had been their supporter and friend. And why is not the same thing to be said of his relation to a wife? Legislation must deliberately study this problem, and not wink at it. Let honour be warmly paid to the philanthropy which is studying the refor-

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mation of criminals by tedious and elaborate supervision; but let us not shut our eyes to the terrible revelation made concerning society, if criminals by the thousands have to be held in servitude for long years, and artificially nursed into some tolerable honesty. To mend a broken jar is far easier than to re-establish damaged morality. With enormous effort, expense, and patient management, one may recover a few fallen women and (say) a respectable fraction of male felons: but incurables will remain, and will accumulate upon us in new, as in old, systems. Evidently the great work of philanthropy is to *prevent* crime; and if it be so busied with schemes of reformation as to forget and obscure this primary certainty, it may even do pure harm. So far from desiring to extend to the utmost the limits of this artificial reformatory scheme, surely the effort of law ought to be to restrict it to exceptional cases. If possible, the open field of life should afford means of self recovery. If that cannot be, then the desperate nature of the disease makes prevention of so paramount importance, that it is not too much to demand large changes in the relations of society,—such changes as might be called revolutionary or despotic when not strictly necessary,—if without them prevention cannot be attained. The principle has been illustrated in many ways. What argument has made public lotteries, gambling tables, and systems of public-house betting on races, illegal? By far the most powerful of arguments was, that they *offer too strong a temptation* to clerks and other poor persons to gamble with the money of their employers. Of the same nature is the argument by which for many hundred years the traffic in intoxicating liquors has been kept under jealous restrictions; because a free trade tempts weak persons to an indulgence that leads to crime. By the very same argument it is now powerfully urged that the existing number of licensed houses is nothing short of a manufactory of crime; since the judges agree that three-quarters of the violent crime comes directly from the drink-shops. If we insist on overlooking the duty of prevention, our success in reformation will be like that of a man, who, when his boat is leaky, neglects to plug the hole, but uses great activity to bale away the water which rushes in.

A punishment which either removes a criminal from the world, or quickly restores him to the world after a sharp momentary suffering, may be called barbaric in its simplicity; yet simple it *is*: it is suited to barbaric offences, and avoids certain chronic evils. But here it is wonderful to meet the objection (very current a s

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against capital punishment), that it is essentially wrong, because *irreversible*. It is said: "We cannot bring a dead man to life; hence we must put no criminal to death, lest through error we have sentenced the innocent." No week passes without this argument being pressed on the public: and those who use it appear unconscious that it is an objection against all ignominious punishment whatsoever. It is a misfortune for a respectable man to be accused in court of indecent conduct to a female in a railway carriage; a still graver misfortune to be unjustly believed guilty: is therefore no man to be sentenced? If after the lapse of months innocence is established, this cannot undo the mental distress which has meanwhile been endured from an unjust verdict. What if a man have been severely flogged for outrages against a woman, of which he is afterwards proved to have been innocent? Can the later discovery undo the physical pain and galling sense of degradation? Of course it will be replied: "conscious innocence must sustain him in the trial as it best may:"—which is true alike in every case. In recent legal history we have had some marvellous instances of unjust sentence. The most signal is that of Mr Barber, a solicitor, who endured an unjust penal servitude for years, with total loss of property; and could at last only obtain *pardon* from the crown, without any restitution, and without even recovering his right of practice as an attorney. If these cruel and unjust aggravations of iniquity had been removed, still the mistake was at the least a very terrible one. When it is argued, that in delicate cases of balanced evidence juries are unwilling to sentence a man to death, because they have misgivings as to the certainty of his guilt, and hence that criminals now meet impunity; the reasoner must intend to say, that juries will become comparatively unscrupulous, and will convict without decisive grounds, if the death punishment be exchanged into long penal servitude or into a series of fierce whippings. Were this true (which may be doubted), it would be no gain to justice or morality. Whatever the punishment, the verdict needs to be in all cases equally scrupulous and conscientious: it is, in fact, seldom reversible. On occasion of Müller's recent trial for the murder of Mr Briggs, evidence was scraped up of erroneous verdicts where the punishment was short of death, as a decisive argument against death-punishment; whereas the facts, if they prove anything, prove the very opposite;—since, first, they suggest that juries are careless when punishments are smaller; or secondly, they

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show that human error is sometimes unavoidable, and that its contingency in extreme cases is no reason for shrinking from doing our best. On the other hand, we believe that the execution of an innocent man by the mistake of a jury, is of all errors, out and out, by far the rarest.

The general conclusions to which these considerations point, are: 1. That the word "murder" is now applied to crimes essentially diverse; just as when "manslaughter" was confounded with murder. It may well be considered whether the death-penalty is not still inflicted too widely; although forgery, horse-stealing, and swan-stealing are no longer visited with it. 2. That corporal chastisement for many crimes of violence, or crimes of passion or recklessness which easily entail a calamity, is a natural and healthy remedy. Dastardly offences against the weak and the weaker sex eminently call for this punishment; and in such offences may be included the seduction of a woman. We drop the remark here for the meditation of others, barely adding that rich and respectable parents would look with very different eyes on such an offence in a son, if it were visited with the ignominy of public stripes, however limited in number. The placing of such a law on the statute book would purify public opinion and deter from the offence. 3. That if capital punishment for the worst class of murders is to be reasoned down, it must be shown, first, that the punishment is *not* dreaded and has no tendency to deter; secondly, that some other punishment *will* deter; and thirdly, that there is some feasible mode of reformation by which such criminals can be restored to free citizenship and moral life in society. A state of hopeless servitude is a detestable demoralization. 4. That although efforts for the reformation of criminals are by all means praiseworthy, yet they are vastly less important than prevention; and cannot be carried out with full energy, except in proportion as hope is given that we are not engaged in the proverbial toil of mopping up the ocean. 5. That in order to *prevent* crime, the institutions which generate crime must be remodelled; the institutions which undertake to instruct the nation in religion and morality be popularized, so as to bring to its minimum the chasm between the National Church and the people; lastly, while the haste to get rich tempts so many to crime, let every facility be opened to the industrious to improve their external position by ways of honesty. To that which we have named last, our foremost statesmen are thoroughly alive: would that we could say the same concerning the other topics of prevention!

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ON THE NATIONAL CHURCH.

From "Fraser's Magazine," May 1863.

THE great religious Reformation of the sixteenth century was at once scientific, spiritual, and political; hence it was carried forward by minds widely different, and on different grounds. The purely religious minds, ardent for truth, engage our warmest interest; yet, as we know they prematurely identified truth with their own perceptions, and had not learned to check their private errors by a due estimate of the equal powers of other minds, we cannot regret that they were balanced and often restrained by those who thought less of truth than of policy. Invidious as this phrase sounds, it has its honourable interpretation. The better class of those who approached Church reformation from its political side, seldom trusted to their own spiritual insight, or desired to impose their own views; but they regarded the Church as a common possession, a great organ of national unity and national education; and they could not endure that any forward, keen-witted man or men, whatever their real spiritual discernment, should hurry the Church faster than the myriad individuals of the nation could follow. Hence their question was not so much, or so directly, what is true? as, what is the great mass of the more intelligent ready to accept as true? and, what is the maximum of truth which can be admitted into the new regimen, without disgusting too many, and running a risk of dangerous reaction?

If, as the sect of Independents first alleged, the very idea of a National Church is unchristian and essentially unjustifiable, nothing remains but quickly to obey the Anti-State Church Association, and extinguish the existing hierarchy. Our readers will probably expect, and even claim, that we shall give no weight to such a doctrine. We write strictly from what we conceive to have been the *Anglican* theory, as distinguished from that of other Protestant churches. Whether Anglicans are right or wrong, their distinctive peculiarity was this,—that nationalism was in any case to be preserved, as something absolute; that truth

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was in one sense secondary, namely, inasmuch as it is something relative. A National Church cannot have pure truth, but so much truth only as the nation is ripe to receive, or at least will not violently reject; and, from the nature of the case, there must be compromise. For no general church system will go so far as the foremost minds, and it will often go too far for the most backward. We believe, it is virtually on this ground that all the moderate and wisest historians of the Anglican Church have extolled its foundations. They have judged that, take it as a whole, the Reformation, as established under Elizabeth, went as far as the collective nation was then able to go; and that the more active Puritanism then rising would have at once precipitated a variety of hostile sects, if they had not been sharply checked by the power of the great Queen. On no other theory than that of compromise, does a National Church seem to be anything else than the violent and unjust imposing of the mind of a few, perhaps of an individual, on the whole political community.

Nevertheless, inferences of great weight immediately present themselves, the moment that we contemplate these fundamental considerations. If the Church was not from the beginning established as a system of absolute truth, but of such truth as the nation was ripe for; if it was lawful and necessary to reform it in the sixteenth century, in order to harmonize it with the higher intelligence of the best minds, so far as could be done without making it useless to the inferior minds; then, in the very proportion of its success to enlighten and raise the more backward, its fixed system must fall behind the age ere long, and need new reform. Hence, to fix anything for ever in the State Church is as pernicious and absurd as to do so in the State, of which it is a part. To assume immutability for a temporary compromise is to abandon wholly the reasonable and moderate considerations, without which it is impossible to justify a National Church. To allege that it was right to accommodate it to the state of the nation, is to confess that it ought to grow with the national mind. A fixed, unchangeable theology is either divinely perfect (and then it cannot be national), or it is partially untrue, and liable to become an injustice and a public nuisance, when the nation outgrows it.

In two other respects the national theory was never carried out. First, as to Ireland; but concerning this we need not wonder. The political exasperations had been so great, that Protestants could not treat Romanism in Ireland as a purely religious form. Perhaps no wholesome toleration was practicable, until Jesuitry

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had thoroughly disgraced itself, and was proscribed by the Popes themselves. When the dynasty of the Georges was at last firm in England, after the failure of the last effort against it from Scotland, then was the crisis for England to be generous to Irish religion. Had this been in the heart of George III., when the Irish Volunteers arose to repel contingent French invasion, the after history of Ireland and its relations to England would have been far happier. But, although many a Whig statesman, including Earl Russell, has condemned the existing Irish Church as anti-national and mischievous, none has had strength to carry out his desires and convictions. In 1837, a bill, prepared by the aid and with the warm approval of the Protestant Archbishop of Dublin, was presented to the Commons by Lord Morpeth, in the name of the Melbourne ministry, and received the sanction of the House; but it was rejected by the Lords. This bill would have destroyed the theoretically national character of the Irish Church, by assimilating it to a congregational system; but it would have introduced the national principle in a new form, without alienating any revenues from the direct control of the State. The Romish clergy would, before long, have received from the State large allowances, not as Romanists, but as public educators temporarily suitable to the nation. A full quarter of a century has past, since the Queen's ministry and the House of Commons solemnly declared this concession to be due to the Irish nation, and in that long time no new effort has been made. Who can but fear that Ireland will show her resentment bitterly? The Church by law established in Ireland *cannot*, in four-fifths of the land, fulfil any of the functions of a National Church; because it is separated by too wide a chasm from the sympathies of the people. To call it national, is a mere abuse of terms, when of necessity it is sectional, and an object not of reverence, but of hatred.

But next, it cannot be too much regretted that an element, utterly opposed to real nationalism, was allowed to domineer in the ecclesiastical enactments, at the last great settlement, in 1662. Under the Commonwealth, the Puritanical spirit had run into Presbyterianism, had excluded the High and Episcopalian Church, and (we suppose and believe) had introduced much sectarian narrowness, which it was perfectly right in the restored monarchy to correct. But exile does not improve men's temper; and it is both certain and evident that, from intense dislike of the Presbyterian clergy, the High Church schemed to eject them.

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The enactments then imposed are quite out of character with a Church that desires to be national. The demand of "*assent* and *consent*," of itself denotes what pains were taken to fasten men down to a limited and definite creed, which allowed no play to diversity of mind; in fact, the only excuse and apology for it is, that the ejected ministers (with numerous high virtues of their own) were perhaps in general intellectually still narrower than their Episcopalian opponents. The Episcopalians themselves have ever since suffered from it. Not only was a great, permanent, incurable schism made, which has ever since weakened the Church; but the tightness of the subscriptions has not ceased to distress the consciences of hundreds and thousands of good churchmen, and has in every generation caused the Church to lose men who would have been its ornament and its strength.

That this very circumstance does not grieve the bishops and clergy—that it has not long since drawn from them earnest entreaties to Parliament for a loosening of ties which are evidently fetters—is one of the most painful and alarming facts; for it denotes that the clergy have become *sectarianized* by the system; that, while claiming the dignity of nationalism, they have not a national spirit. National Christianity does not cry out, "All shall believe as I do, or be ejected from the Church;" for this is the essence of sectarianism. But it cries: "Let all of us who are not hopelessly antagonistic, unite our spiritual forces to contend practically against sin and degradation." In the interest of the Church itself, as a national establishment, which cannot be permanent if it pertinaciously violate the essential conditions of such an institution, we crave patience and forbearance of our readers, if we probe somewhat keenly the unsound parts.

In fact, it is not only at the loss of individual good men from its ministry and communion, that the officers of the Church are so wonderfully apathetic (if we ought not rather to say, that they rejoice at their departure); but the same phenomenon has been observed on the greatest scale also in the second schism, which has rent the nation from end to end. Of course we refer to the Wesleyan Methodists. Lord Macaulay, in his vivid article on Ranke's *History of the Popes*, moralizes on the wonderful stupidity of the Anglican Church, in having allowed that body of men to become dissenters. Wesley, he says, would have been made head of a new order by the Church of Rome; he

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would, no doubt, have been canonized as a saint after death.—There has been no more thriving sect than this, in England or in the colonies. What is their number at present, we fear to say; but it is counted by millions. Without Macaulay's brilliancy, all thoughtful men may be expected to see the importance of so great a phenomenon. Dr Arnold, some thirty years ago, avowed that concessions—of mere form, not of creed nor of substance—should be made to win back the Wesleyans to the Church. It is, of course, less easy to recover them than it was to prevent their loss; yet the task is comparatively light. For they have no repugnance to a State Church, such as the Independents and Baptists nourish; nay, they have a preference for it. All their habits and tastes continue in general sympathy with its forms and vestments, its music, its liturgy, its aristocratic pretensions; nor has any diversity of creed come in. The class-meetings, to which they are attached, are as harmless an addition to the Church system as the Evangelical tea-parties and prayers. The process needed, with a view to embrace them in the Church, would not in strictness be any reform or change of the Church itself; it is merely a process of *annexation*. As the Crown of England annexes to itself Ceylon or India without any change in its home government or internal relations, so would it be with the Church in annexing the Wesleyans. The existing ministers would have to be admitted as they are; no patron would hereby be forced to present them for livings; and the concession would be won by the Church, that *in future* all the ministers shall receive episcopal ordination, if only due pains were taken to conciliate them in other respects, allowing them to retain some internal organisation. Our calculation may be wrong. The sectarian principle may have become in the last half century more intense than we are aware. Be this as it may, the fact is clear, that not one effort, great or small, has been made by one statesman or one bishop in the direction of conciliating this large, influential, and congenial body. As far as appeared, Dr Arnold earned nothing but opprobrium and ill-will by his simple-hearted proposal. Such phenomena suggest, that the hierarchy do not wish to be national, but wish to have nationality as a *name*, that they may enjoy (must we say?) at once the egotism of sectarianism, and the representative dignity of public officers.

The recent history of Scotland affords an equally ominous circumstance, which indicates that our statesmen are reckless of State Churches, however opposite their language may

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generally sound. Scotland had already suffered one great secession from her establishment analogous to that inflicted on England by Charles II. Recent years have added a second enormous secession, that of the Free Church, greater in several respects than that of our Wesleyans. The discontented party held intensely to the theory of a State Church, upon which its celebrated leader, Dr Chalmers, had always been strong and decisive. Whatever their narrowness of mind, they comprized all the most active and living religion within the Church; the ministers were pre-eminently "orthodox," and commanded veneration from the millions of Scotland as well as from hundreds and thousands of the richer classes. Their grievance lay in the refusal to the congregations of a right of veto against the "patron" in the case of clerical appointments. British statesmen supported the Scotch patrons, and precipitated this calamitous rupture. In all the cases we have enumerated, the seceders have departed most unwillingly, and might have been retained by very moderate concessions. Statesmen who appeal to argument and right, and are decorous enough to treat fellow-citizens as equals, are surely bound to consider the rights of every part of the nation—the rights of Irish Catholics, of Welsh Calvinists, of Scotch Seceders, of English Wesleyans, and of that vast body in England, perhaps as large as any of them—certainly by far the most intelligent—who are increasingly annoyed by the absence of largeness of mind which they painfully feel in the clergy.

A review of the ecclesiastical history of the last sixty years does not encourage the hope that any sensible and influential fraction of the priesthood will desire any change which aims to retain in the Church the devoutest, noblest, most learned, and esteemed of men that cannot pronounce the Shibboleth. What have they cared to lose a Rowland Hill or a Baptist Noel? If a Jowett, a Rowland Williams, a Colenso go after them, do not they already say, "So much the better"? Great efforts have been made to crush and expel Dr Hampden, Dr Pusey, Mr Frederick Maurice. Dr Pusey, at one time the accused, is at another the accuser. Yes, Pusey, who opened his career of high promise by a brave-hearted and sweet vindication of German piety; Pusey, whose learning and devoutness might have been an honour to his university and a blessing to his Church, was fatally corrupted by the cankering iron of fixed subscriptions, fell back upon patristic follies, became the centre of reaction, afforded a name to a sect, and one year condemned in the Vice-Chancellor's

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Court, another year becomes the accuser of Jowett, whose sin is to think as freely as Pusey thought in those years when the Duke of Wellington honoured his youth by appointing him Regius Professor of Hebrew. We call on all the parliamentary High Churchmen whom our voice can by any means reach, and beg them to compute how much the Church can be strengthened by such quarrels.

It will be observed that in the last thirty years the schism of High and Low Church, ordinarily far too bitter, has again and again suddenly been healed in their conjunction to crush a freedom distasteful to both; and although the present combination of High and Low Church is in part against a bishop who avows that his conclusions are inconsistent with the parliamentary enactments, yet, among the lower clergy at least, there was fully as much animosity, and an illegality which no one can now impute, in the first attack on Dr Hampden on his appointment to be Divinity Professor. By the joint testimony of the late Dr Arnold, Dr Hawkins of Oriel College, the late Archdeacon Julius Hare, and last, not least, the Bishop of Oxford, Dr Hampden in no respect went beyond his subscriptions, but exercised a liberty strictly within the limits of law. He has since been raised to the Episcopate. The burst of anger thereby caused was dispelled by Bishop Wilberforce, who most unexpectedly declared that after a full examination of the case he found Dr Hampden to be irreproachable. Unhappily all men have not nerves strong enough to bear the tumult of controversy concerning matters which to their hearts ought to be sheltered in deep tranquillity; and by the rending asunder of friendships, and marvellous cruelties which bigotry develops, their sensitiveness is quite overpowered. Bishop Hampden (a gentleman wholly unknown to us) appears to have been blighted and crushed by that terrible attack. He has withdrawn nothing; he has neither apologized nor recanted; he has since been promoted to the bench of bishops; no one any longer ventures to say that his *Bampton Lectures* are "unorthodox:" yet, since that learned and striking publication, he has not produced anything which, as far as we can hear, his friends commend—anything which can justify the ministers of the crown who raised him to the dignity first of Professor, next of Bishop. Here is a manifest proof how active in the clergy is a spirit which tries to crush (and does crush) freedom *within* the legal limits equally with freedom *beyond* those limits. Are we hard upon them in saying, this marks a bigotry which nothing can satiate?

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One of the ecclesiastical regulations may be here pointed at, which is mischievously encouraging a sectarian spirit in the clergy—we mean their power of appearing as *accusers* of a brother clergyman as heterodox. Everybody must see the intensely schismatic result of an accusation that has failed. "Schism" is not a mere outward division: it is emphatically spiritual. What kind of "Unity of the Spirit in the bond of peace" existed, or could have existed, in Oxford after either the first movement to degrade Dr Hampden, or the prosecution of Dr Pusey? Schism was thenceforward the normal state. Surely all the ecclesiastical prosecution for religious error (if such a thing is still necessary in extreme cases) should belong entirely to an ecclesiastical attorney-general: in which case the power would not be used, except when some grave scandal affected the minds of the laity at large—a scandal inconsistent with the professed ends of the National Church; and the clergy would be unimplicated in the odium of mutual antagonism and the effort at mutual ejection.

The word *compromise* is often stigmatized as hateful and abominable in a Church, inasmuch as religion ought to maintain truth without compromise. This is only one of the points in which sectarianism, the bane of Protestants, has eaten its way into the heart of the Anglican clergy, and has proportionately sapped the very foundation of the Church. A verbal confusion perhaps deceives many. Of course, no clergyman can accept it as a compliment to be called "a compromising person;" for this will suggest that he is ready to say the thing that is not when it is convenient. Truthfulness of the *individual* man is essential to moral worth; but for this very reason the *system* of the Church must be lax, in order to allow truthfulness to individuals. The compromise does not consist in personal falsehood, but in legislative comprehensiveness; and those who resist the relaxations of legal test-articles upon an abstract notion of "upholding truth," either cause men to be untruthful or drive them into secession: in each way damaging the strength of the Church, whether spiritually or materially. The parties internal to the Church, High and Low, are both painfully aware, in the formularies, of certain passages which gall them. The Evangelicals do not like the bestowal of the right to forgive or retain sin in the ordination service; nor baptismal regeneration; nor do the High Church admire the article on predestination, and various other matters: yet neither party will propose relaxation in the subscriptions, whether for the others or for themselves. And why

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not? Avowedly because they dread lest, through the movement of the national mind, many beside, not less honest, less pious or less learned men, whom the formularies now exclude effectually, should simultaneously gain admission. They prefer to encourage untruthfulness *rather than allow the Church to become more really national.*

But what might laymen do? It may be said: give us a plan. Nothing good can be got without paying a price; and no new organization worth having is to be had without some concession. But concessions, like taxes, are disagreeable, and always afford something to object to. The first thing needful is, that statesmen should feel, and should declare *the object to be desirable;* as by a solemn vote of Parliament, "*It is deeply to be regretted that the Church has become too narrow for the nation; and measures ought to be taken to make it as comprehensive as possible.*" So soon as it is certain that a solution of this problem is desired by authority, many practical methods will be suggested. But if this is much longer delayed by the friends of nationalism in religion, the thing may shortly be taken out of their hands by the advocates of sectarianism.

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TOLERATION—THE POPE'S ENCYCLICAL.

From "Fraser's Magazine," August 1865.

THE very name Toleration has in modern days been disapproved and disowned, as concealing an assumption inherently offensive, by many honest advocates of freedom and equality. We respect and approve their zeal, which we hold to have practical reason in many cases. We entreat any such readers to believe, that with them we disavow unseemly arrogance in assuming to "tolerate" others: yet we think that Toleration by the State, as distinguished from perfect Neutrality, must often be justified; toleration, not of foreigners only, but of citizens; and in defence of our title we beg at once to indicate special cases. They most easily and commonly arise when rulers and ruled belong to different races, having different religions, different philosophies, different moral development, and therefore, in certain points, different codes of morality. Polygamy is a notorious and critical test; as it involves new and difficult problems to the courts of law (if it be unknown to the code of the rulers), while it entails very grave consequences to the whole social existence. If the same British Government refuse to sanction polygamy in the United Kingdom, but recognize it in the Mohammedans of India, where it is of historic growth, no one will object to the phrase that we *tolerate* polygamy in India. Undoubtedly the word implies that we regard the institution as a lower and undesirable state, which mankind have elsewhere outgrown, and as a relic of barbarism which a wise Government ought to discourage. On the contrary, other practices which claim religious sanction in India,—such as the burning of living widows on a dead husband's pile,—the crushing of pilgrims under the wheels of Jaganaut's car,—are no longer tolerated by us, but are suppressed with a high hand. While a foreign practice is judged of from a *moral* point of view, no one can reasonably object to our feeling repugnance to it, even while it may seem unadvisable to punish it by law. On the contrary, when a difference of religion does not touch social morality, but is only decreed to be moral by ecclesiastical enact-

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ment,—as the question whether Ali ought to have been the first khalif, or, how Easter should be computed,—then there is reason in the dislike to the word Toleration. It seems to us absurd for a Turk to say that he tolerates a Persian heretic, or for Dr Arnold that he tolerates a Jew. The unbelief of the Persian in Turkey, or of the Jew in England, has in it nothing of a moral or political character with which Law can justly concern itself. Christians differ among themselves in moral questions and sentiment at least as much as the Jew differs from them; and the same may be said of Sonnee and Shiite.

So much suffices to indicate that there is a real margin—how broad, is a separate question—between those enormities of fanatical religion which the law justly punishes as inhuman or perniciously immoral, and those diversities of religious belief which the law and its executive ought to treat with absolute impartiality. The two extreme cases are clear enough. On the one side we have (perhaps) rival schools of science,—homœopathic and allopathic physicians; astronomers or geologists of an old or new sect; Athanasian and Arian Christians; Nestorians and Monophysites; Quakers and Jews. Except that the Quaker may come into collision with patriotism by his peculiar aversion to the use of force against force; in all besides we have only differences of opinion which may be called *scientific*;—towards which, not the law only, but the whole Executive Government, ought to bear itself with perfect equality. While the dispute is one of science, the Government must not uphold one side and discourage the other; but, like Gallio, so much reviled in Puritanical sermons, must "care for none of these things." In selecting its officers,—in bestowing honour and promotion, controversies of science are quite as irrelevant as the colour of the skin. The opposite extreme case is, where pernicious immorality or injustice has been incorporated with religion. No European is so imbecile as to say that the Thugs in India should have been allowed to strangle and plunder travellers, because it was part of their religion. We need not fear that anyone will call the legal suppression of such crime religious persecution. So again, when we punish an Englishman at home for exposing indecent pictures in his shop-window, and even for having them on sale, it is not religious persecution if we forbid similar offences against public morality in India, though they have come down under the cover of an ancient religion. When a form of worship, a *cultus*, assumes a character which is widely different from scientific research or opinion, it

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cannot claim the immunities of science. If it persist in public practices which are incentives of foul vices or encroachments on the public right, it exposes itself to the attack of the law, and to proportionate penalties. And even when it is not legally punished, it may deserve executive discouragement, and be barely *tolerated*.

Ancient governments so fell into conflict with foreign religions as (perhaps unjustly) to appear intolerant and persecuting; because most ancient religions were external and obtrusive. It is much to be regretted that we have no such knowledge of the old Egyptian and Indian priesthoods as to throw light on their conduct towards foreign systems of religion. Antiquity may seem to have started from an assumption concerning the functions of the State so different from our own, as wholly to exclude our idea of religious freedom; but this is probably only because the religion established or forbidden by the State was regarded as essentially an external *cultus*. When Aristotle lays down as an axiom, that policy includes the worship of the gods within its scope, and dictates how they shall be honoured, he cannot have had the slightest intention to deny the private right to think or believe or teach freely concerning the nature of the gods. Whether a Dionysian mystic should be allowed to play antics in the public street, to dance as a dervish, to collect money from the crowd, to initiate votaries, to exhibit a secret pantomime with strict exclusion of the police—no doubt, appeared to Aristotle quite as obviously within the jurisdiction of the State as the regulation of the theatres. The Romans, eminently tolerant as they generally were of a foreign religion where it was of historical growth, looked with extreme jealousy on secret rites propagated by individuals who might find their own gain in immoralities or in practices which lead to crime. The accounts in Livy of the fanatical poisonings which were generated from the rites of Bacchus, may be credulous exaggerations; but wherever there was secrecy, and eminently where there was a secret oath, the State was right to take alarm. Secret organization and engagements of obedience to an officer of the community,—as of Jesuits to a General of the Order,—gave peculiar offence to Roman statesmen, even where no immorality was imputed: and it is natural to believe that the severity of Marcus Aurelius to the Christians was directed against them as an unlawful secret society. Looking as Protestants do on Christianity as a spiritual principle only, we are apt to forget that a

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Roman emperor saw it as a dangerous and illicit organization; while to the very freest spiritual research, and public preaching of the results, he had absolutely no objection. Continental statesmen have had, on the same grounds, much hostility to the order of Freemasons.

There is to us something ludicrous, and provocative of incredulity, in the fits of animosity which seem to seize Roman emperors against those called Mathematicians: "A class of men," says Tacitus, "disloyal to the powerful, cheats to the aspiring; sure to be forbidden, and sure to be maintained, in the Roman State. Many had been the mathematicians comprised in Poppæa's secret cabinet,—a vile stock * of tools for a prince's consort." Though sometimes highly educated in geometry, they were morally comparable to fortune-telling gipsies, whom our magistrates regard as swindlers. When their predictions were believed to excite men to political crime,—to various forms of high treason, the severities which fell on the entire class, though probably extreme and ill-judged, had nothing in common with what we call religious persecution. Whether to tolerate or not to tolerate them was evidently a difficult question even with so severely-trained and free-judging an intellect as Tiberius Cæsar. Jewish monarchs were apt to be entangled in the same difficulty when a religious teacher predicted political events and disheartened the national army.

Religious intolerance in ancient Persia is surely, though very dimly, known to us; and would be highly instructive if we could recover the details. The Magi were evidently organized as a powerful priesthood, who (by intrigue and fraud, if Herodotus is to be believed) once got possession of the throne of Persia. When the revolution followed which expelled the usurper, a general massacre of the Order took place, and the day of massacre was kept as a festival. Much later, when the new dynasty of Sassan displaced that of Arsaces,—or the southern tribes of Persia recovered supremacy over the northern,—this also involved a fierce religious persecution; but the moral nature of it is learned only inferentially. It is credible that the real battle was political, as between Sparta and Athens; and that religion did but denote the political faction to which a man belonged, as might his attachment to the military Spartan training or to the free palæstra of Athens. Under the Parthian dynasty Greek culture had been predominant. The dramas of

* Or, stock-in-trade; *instrumentum*.

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Euripides were acted in the original language before the Parthian court; and with Greek poetry must have been imported much of Greek religion, as well as Greek philosophy. The revolution which claimed to "break the sword of Aristotle and extirpate idolatrous heresy" was aiming to eject from power all who had been reared in the principles of the deposed dynasty. That religious bigotry, in the strictest sense, was generated in the conquerors as a secondary result, is every way credible, even if we reject as improbable the interpretation that this was the primary influence at work. Human nature needed yet a long and painful training before it was possible to understand approximately the complementary ideas of Church and State, of mental freedom and corporate rule.

With the Eastern world of Buddhists or Confucians we must not pretend an acquaintance that would here justify allusion. Among the Westerns the first dawn of modern thought concerning freedom of religion,—that is, freedom of spiritual teaching and worship,—is found in the Jewish synagogues established wherever that people had been dispersed. "The twelve* tribes scattered abroad" had migrated from the cities of their captivity westward and eastward; probably because they began to take up the trades of pedlar and banker; and were forced to occupy new and new ground in order to find a sphere for the exercise of occupations very limited. Their synagogues, dissociated from the national temple, with its sacrifices and ceremonial, dropped a great part of what was narrow, external, and temporary in the Levitical ordinances. What they maintained for their own instruction and edification became a centre of light to the heathen population around them. The occasions were very rare in which a tyrant like Antiochus Epiphanes endeavoured to force upon them conformity to heathen practices. With the exception of such cases, toleration seemed to have established itself. Yet it was *only* toleration. Conformity to national ceremonies was a kind of oath of allegiance, without which no one could hold high office or be anything but an alien.

From the great Apostle of the Gentiles and his associates was spread abroad over Europe the Christian idea which sharply separates Church and State. While all State ceremonies were

* The moderns perversely pretend that the Jews found in the principal cities, west and east, before the destruction of Jerusalem by Titus, belonged to *the two* tribes only; and then proceed to put a fool's question, What has become of *the ten* tribes?

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closely allied with idolatry, and while a Caligula, a Claudius, or a Nero sat on the throne of the Roman world, no Christian could wish to be a political officer. He might, like Paul, use the accident of his political right as an aid to diffuse the gospel; but his fundamental idea was, that he was a citizen of heaven, and that the duration of this earth was to be so short, that it was not worth while to make effort for citizenship in it, or seek to revolutionize its political injustices. Neither the apostle himself, nor any Christian authority, ever enunciated (or, as far as we know, imagined) that by embracing Christianity political rights were forfeited, any more than property. Nevertheless, two influences made such rights contemptible: the nature of the religion, on the one hand, with its meek and just aspirations, in contrast to the all-prevailing violence of rule; on the other hand, the subsidiary doctrine that Satan is the ruler of "this world;" that is, we presume, of heathen kingdoms; over which the principalities and powers "of this air,"—not celestial but sublunary demons,—held a pernicious sway. Hence Christians necessarily became cosmopolite in theory, having no local patriotism; and in practice made the Church their only "country" on this earth. Between a Galatian and an Ephesian or Italian Christian there was a sensible free-masonry; while Galatian, Ephesian, and Italian heathens were nearly foreigners to each other. From the nature of the case, Christians of every land became denationalized, and expatriated themselves into the Church, which kindled in them a new patriotism, a hundredfold of that which could ordinarily have arisen towards their old country, when it was hopelessly trodden down under the heel of the Roman. The new sentiment could not live and thrive and propagate itself without becoming also an organizing force, which combined the scattered societies of Christians into the unity called The Church, and invested its high officers with immense moral power. Such organization and such power (certainly not anything in its spiritual doctrines) drew upon it first the alarm, then the fixed hatred, finally the deadly hostility, of the most energetic and able emperors, until Constantine made its cause his own. Some had tolerated it, others had persecuted it; he made it politically dominant: finally Theodosius refused to tolerate heathen worship, however free from immoralities.

It deserves particular attention, that the state of sentiment which arose before Constantine has continued to this day in the old churches, with comparatively small abatement, over a large

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area of the world. On this turns the chief peculiarity of modern history, and the chief practical difficulties to the civil power in the matter of toleration. If the Christians under Trajan, Severus, or Dioclesian felt no patriotism but towards the Church, it was because no national institutions had been left which could call out patriotic feeling. Nor did they arise in any fixed form until the fourteenth century of the Christian era, when the national languages of Europe established themselves. Zeal for the success of a dynasty, or of a tribe that easily migrates, can hardly be dignified with the title of patriotism. But undoubtedly with the national languages national sentiment arose in Europe, and in many countries began, with more or less strength, to display a force antagonistic to the ecclesiastical. Not so with Christians under the Saracen nor under the Turkish rule. Being only tolerated, not adopted into equality, by Mohammedan conquerors, they never regarded themselves as genuine citizens of those empires, nor ever collectively imbibed a local patriotism. The Church continued to absorb into itself that powerful impulse of the heart, and on the same area does so almost to this day; for the nationality of Greece is still antagonistic to the Mohammedan and is prevalently ecclesiastical. Hence there has been no reform in the Greek, Armenian, Syrian, or Coptic Churches, where patriotism was denied to the laity. Turning from this more distant survey, we find the same phenomenon close at home —in Ireland. That unfortunate country was first torn apart by ambitious native chieftains, then conquered in detail by English invaders, while the native population had no national centre nor national institutions to rally them. Had we remained Catholics, two or three centuries might have brought about as much reconciliation as between Wales and England; but when we tried to draw them too rapidly and rudely into our reform of religion, we brought them into the same position towards us as Turkish Christians hold to the Sultan and his co-religionists. The "Church" became their only native organ, and the focus of fond patriotism: and as the centre of the Church was a foreign potentate in Rome, the English Government encountered in Ireland not merely disaffection, but allegiance to a foreign power.

It has been said that the old Romans worshipped Rome as a goddess, nor does this describe amiss the patriotic sentiment in many nations. "Our country, right or wrong!" is a toast which moralists cannot approve, but statesmen refuse to censure. Such is also the uncritical devotion of Catholics towards the Church.

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A Protestant thinks of the Church as a collection of fallible men, and its ordinances as partaking of the weakness which is inevitable to humanity at its best. If he magnify the Church as "his Mother," and invest her with a halo which obscures all the historical facts of the Reformation, he—in so far, and temporarily at least,—discards the critical faculty without which there could have been no Protestant reform. The genuine Catholic no more criticizes the right and wrong of a Church ordinance, than does an English statesman the ancient settlements of landed property or of political privilege. These are not open questions to him. Will some one say, "The old barons who made these enactments were fallible men,—nay, were generally rapacious men,—and followed the rule of getting and keeping what they could"? To such argument every mere statesman turns deaf ears. For the decisions made eight centuries ago, says he, we are not responsible; we have to submit, and we had better not criticize them. What more (it may be said) could an old Roman do, who believed that the nymph Egeria divinely enjoined the public institutions on Numa? Perhaps nothing more. When we are willing to resign fortune and life in support of national institutions, we make as full a sacrifice as we can make to any religious faith. Many have wondered to hear of men submitting to be martyrs for Hindooism, as if this required some totally different element of character from that which makes others become martyrs for their country. When patriotism has turned its whole force on to a religious organization,—whatever the intrinsic moral value of that organization,—no criticism of it is endured; but, in proportion to a man's loftiness of character, he is apt to be carried into enthusiastic devotion. It is hard to say whether the Virgin Mother, or Mother Church, has the more direct adoration from the devout Catholic who has no national spirit counteracting it. But if, as in Ireland, a national spirit rises, built *upon* the Church, the Church becomes his only true object of earthly allegiance.

In this fact lay the main logical strength of the opposition made against admitting Irish Catholics to political equality with ourselves. A whole generation has passed since the great crisis of 1829, and none of our younger men can remember the struggle and its arguments. The Liberals well discerned, that if we want to allure men into patriotism, we must give them a country to love: that, long before the Reformation, the development of national spirit in the English laity had proved emphatically

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antagonistic to ecclesiasticism: that under German Protestant sovereigns, the Catholics who were admitted to political equality with the rival religion were loyal and faithful, and if sometimes felt as a thorn, yet had lost all poison in their sting: finally, the exemplary political conduct of English Catholics was regarded as a proof that the religion did not necessarily make men disloyal, even when it was oppressed politically. To this was generally added the zealous and fond assertion, that Catholicism had greatly changed its nature; that its historical violences had been only a temporary influence from ages comparatively barbarous; that in these more enlightened times it had improved more than it chose to avow. It could not decorously condemn the outrageous wickedness which Popes had sanctioned; yet it was really now of a totally different spirit, and would meet concessions with frank heart, and bury in forgetfulness the exasperations of the past. What sort of toleration the Pope gave to his own Italian subjects was no secret; but on his own area he was absolute, and was uncontrolled by the laity. His Italian rule, being a purely clerical government, was not a fair specimen of the tendencies of Catholicism in general. Give fair play to the Catholic laity, and they would restrain any excess of bigotry in the clergy. The theory of the Church creed, no doubt, was immutability, but history proved it to have undergone enormous change; nor could human nature avoid successive developments of mind. If the clerical doctrine had not changed, yet the sentiment of the laity had; and would improve in the direct proportion of the confidence which we meted out to them. Such may be a general summary of the arguments of such men as Canning and the Whigs, in contrast to those which at length converted Wellington and Peel. It was natural for the advocates of justice and conciliation to indulge these hopeful visions, yet they could not quiet their opponents;—in particular, they called out the opposition of two powerful minds, the Rev. J. Blanco White, who knew well in Spain what the Church of Rome still is, and the learned Dr Philpotts, since then the well-known bishop of Exeter.

Painful experience has blighted the hopeful visions. In truth, the course taken by the English Government did not do enough to win the Catholic laity and separate them from the cause of the clergy. In Ireland the laity have been scarcely any check upon ultramontane aspirations; hence the prophets of evil have seemed to be nearly correct. And on looking back, from a

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general survey of Catholicism in Europe, it may be seen that no other result was to be expected.

In one great national Church of Europe only,—that of Hungary,—had the Catholics retained the vast ecclesiastical revenues unimpaired; and in it they had been in perpetual collision with a foreign dynasty, which struggled incessantly by alternate violence and intrigue to subvert native institutions and impose foreign officials. Here, and here alone, the national overpowered the ecclesiastical impulse of the clergy. Here the high organs of the Church considered themselves as the independent feudatories of the Pope, who was their Suzerain indeed, but not their Lord. The Hungarian clergy could not become "ultramontane," any more than the English clergy under Edward I. and III.; much less would the laity desire any further infliction on Protestants than the subordinate position which they already held. But when we have excepted the Hungarian Church, by reason of its very peculiar position, what have we to say concerning the rest of Europe? In France the clergy lost the Church estates by the great revolution, and had become mere pensioners on the civil government, in common with the Protestants. In consequence they had rapidly become ultramontane, and the Jesuits were increasing in power. On the death of Louis XVIII. (who perhaps may be hereafter judged the best king of the French) the bigotry of his successor Charles X. opened to them new aspirations, which already in 1829 aroused the justest alarm in France. In Spain, and in the hereditary provinces of Austria, possession of power had not led to any greater tolerance of adverse religions than in Mexico itself, where a most embarrassing law was passed under the clerical influence, forbidding a heretic to be buried in Mexican soil. In Germany, as in England, the strength and cultivation of Protestantism so influenced and permeated the Catholic laity, that the Catholic Church could seldom do anything worse than storm and struggle. We can now see that neither France, where the cultivated laity were so extensively philosophical and unbelieving, where also anti-Papal literature is irrepressible; — nor Germany, where Protestantism is so powerful, and the Catholic Church is allowed to enjoy great national revenues;—nor Great Britain, where Protestantism is twenty to one against Romanism;—were any just types of what was to be expected in Ireland. The Catholic emancipation of 1829 was right, as far as it went. The argument which alone moved Wellington and Peel was formidable assuredly, that the measure was necessary to avoid a

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new civil war. To conquer in such a war would have brought us back into the same odious round of new severities, new repression, and confirmed enmities: to be conquered in it, would have been the severest of all shocks to the empire, and the omen of worse and worse disaster. But to maintain that the measure of emancipation was right, and has saved us from worse than we have incurred, is one thing: to say that Romanism is essentially changed,—that we have earned anything brilliant, or have achieved any of the victories either to Protestantism or to civil order once fondly hoped, is quite a different matter. It often appears as though the gravest conflicts were about to open on us anew.

After great exasperation, which has lasted for centuries, between men of different race and religion, separated even by language, to expect a full pacification in a third part of a century is perhaps in every case too sanguine. But if you resolve to conciliate at all, it is fully worth while to do the work as effectually as you can. From half measures you have little chance of success, especially if they seem extorted by fear, not granted from a sense of justice. It is difficult to measure the immensity of the mischief to England from a disaffected Ireland. The first and most obvious evil is, that an army of not less than thirty thousand men is to be kept there against the chances of insurrection and tumult. The expense of this in men and money is its least mischief. It exhibits us to the world as only encamped in Ireland, as Russia in Poland, as Turkey in Thessaly or in Bulgaria. Conscience makes cowards of our statesmen when they desire to speak truth concerning foreign despotism. But let us forget the much-boasted foreign influence of England,—indeed, its credit has of late run down to zero,—for which our great and expensive embassies are said to be maintained. While Ireland is disaffected, not only does English capital not flow in, but Irish capital is rather hoarded than allowed to fructify. Under our half measures, the Catholic laity are not and cannot be satisfied any more than the clergy; hence their increased power does but make them aspire to more; and the Protestant laity, frightened at the prospect, is susceptible of dangerous fanaticism as a supposed necessary self-defence. The tumultuous destruction of Protestant chapels without any interference of Catholic magistrates, on the one hand, and the ferocity of Protestant mobs on the other, must, we fear (or perhaps, we should say, we hope), sadly torture the repose of the British cabinet.

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The beginning of the mischief was, that Wellington and Peel clung to office in 1829, when their wisdom and duty was to resign. To judge their conduct even from the lowest ground, as party-men, it was very foolish. They so offended their own supporters, that their power expired in the next year. It is probable that the foresight of this risk deluded them into the belief that they were occupying the honourable position of martyrs to truth, and sacrificing party to imperial necessity.

Peel's position was far worse than that of Wellington, who had simply resisted Catholic equality on the ground that the question was too delicate and dangerous to be stirred except by the initiative of the Executive Government. But Peel had almost acted the fanatic. He had avowed that he resisted on religious principle. He had taken part in measures of coercion to remedy the dangers caused by such avowals. In 1827 he had conducted a factious opposition against Mr Canning, and was (with too much truth) said to have hunted him into his grave, on the professed and sole reason that Mr Canning, though not prepared with a measure of "emancipation," yet held the theory (which Pitt had held) that "emancipation" was just and necessary. That in the very next year Mr Peel, becoming ministerial leader in the Commons, should wholly reverse his action after a new demonstration of Irish resolve, gave to the discontented a measure of the fears of the Government and of their own power. It seems undeniable that Wellington and Peel would have consulted better both for the party and for the empire by retiring from office, and allowing the Whigs to bestow on Ireland the boon for which *they* had always pleaded. The difference would have been morally immense. Nothing comes so graceful, so gracious, from the powerful, as a frank confession of error. If, even now, the Emperor of Austria were to say to Hungary, "I have sinned! Take back your national rights, to which all my ancestors swore," he would earn the enthusiastic loyalty of a people at this instant intensely disloyal. Let the very same concessions be made after the loss of a great battle, or in the presence of a formidable danger, and they lose all moral effect. Surely, this is both inevitable and reasonable. What is yielded unwillingly, and under the pressure of force, may be recovered by intrigue, may be never fulfilled in good faith, or may be seized back by new violences upon opportunity. Suspicion and watchfulness, not loyal confidence, is the fit response to extorted concessions. If the Whigs had had the carrying of the Emancipation Act, it would

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have been a solemn avowal that it ought to have accompanied the Act of Union, and had been delayed only through the obstinacy of a deceased monarch, and the error of one portion of the party no longer in power. If at the same time the other part of the Tories, or at least their leaders, had given their vote and influence out of office to the passing of the bill, Ireland might have received it as a triumph of toleration, not as a victory of seditious tumult. But when Wellington and Peel, in language adapted to the comprehension of the most stupid of Tory squires, declared that the concession must be made in order to avoid civil war in Ireland, they did their best to teach Irishmen that sedition and tumult are the only effectual weapons for getting anything out of an English legislature. Such was the first grave error. Before the next year closed, these ministers had to resign office. Forthwith their party, with their connivance, did its utmost to reduce to a minimum the boon to the Irish Catholics. Nor did Sir Robert Peel content himself with connivance only; but in the matter of admitting Catholics to the Irish Municipalities, he fought as obstinately to defeat a measure, which was an obvious and necessary corollary to the Emancipation Act, as if he quite forgot the part which he had played and the arguments which he had used in 1829. This conduct of the Tory party, including its chiefs, Peel and Lyndhurst, from 1831 to 1841, was more fatal than the original error. Of course, they were out of office in the latter period. Is it imaginable that they could or would have so carried out their own Emancipation Act, had they still remained in power? Others may answer this if they can. We have between our teeth their sour grapes, and must sweeten them as we best may.

A still graver mistake than we have yet indicated was probably made in allowing the question of admitting Catholics into Parliament to take precedence of reform of the Irish Protestant Church. That Church is a grievance which meets the Irish Catholic at every turn: what comfort under it will he get from the fact that his co-religionists sit in a London Parliament, to be there assuredly outvoted if they touch the subject of the Church? Nay, Peel and Wellington, to soothe their own party, solemnly declared that the Emancipation Act should contain ample "guarantees" for the safety of the Protestant Church. The chief guarantee proved to consist in an engagement that Catholic members would not vote on bills which touched the rights of that Church; a guarantee which was presently evaded, and had

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no effect but the evil one of lessening the boon which the ministry was bestowing. Irish Catholics in Parliament, so long as the Irish Protestant Church is on its present footing, can hardly be anything but a clique useless for imperial purposes, active only against "Protestant domination" (as it must still be called), in Ireland. Moreover,—inasmuch as the attack of O'Connell and the Catholic Association was directed against the gates and bars of Parliament,—to yield on this point, even if Whigs had carried it, might still have seemed a concession to menaces, and wrung out by impending danger.

Another course was possible and obvious. In 1825 Lord F. Leveson Gower's motion to pension the Catholic clergy actually passed the Commons by a majority of four to three in a very full house. It was stopped, as might be expected, by the Lords; and of course defeated next year in the Commons, since men will not work when they know that labour is to be in vain. But if the private influence of the Tory chiefs had overcome the opposition of the Upper House, it cannot be doubted that Lord L. Gower's measure would easily have passed in 1828. The legislative measures of the next year might have reduced the Protestant Church to its natural limits, making it commensurate with the Protestant population,—on the basis of the principle contained in the Whig Irish Church Bill of 1837. If the Government had refused any immediate admission of Catholics to Parliament, for some reason or pretext not uncivil, and had held out hope, instead of despair, to loyalty and orderly conduct, we cannot believe that any fierce resentment could have been kindled in Ireland. Nothing but despair of obtaining their objects by constitutional methods drives men into civil war. The problem now comes back upon us nearly as it was in 1828.

There are, no doubt, differences; and important ones. The National Schools, which have been wisely established under the joint supervision of the Government and of jealous Catholics, have wrought a sensible and important change in some three and thirty years. The lower Irish are no longer in the same intellectual state as those whom O'Connell used to harangue. Moreover, the extension of railroads, the cheapening of the newspapers, the exodus to America, the letters from the emigrants to their friends at home, must have greatly widened the horizon of thought to Irish peasants. Even in the European excitement of 1848 the attempt to get up insurrection was a failure quite ridiculous. The "cabbage-garden" battle of Smith O'Brien will probably

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be immortal in history. Add to this the vast improvement of steamships, and the facility with which the English Government can concentrate a great force of troops suddenly, and throw it within twelve hours from port to port, and it is clear that an insurrection as formidable as that of 1799 would have immeasurably less chance of succeeding. We are also sanguine enough to hope that even the bitterest enemies of England in Ireland *know* this. Increased facilities of transport, and the vast improvement of fire-arms, have made it doubly difficult for a people not yet armed and organised to throw off an imperial yoke. England did not escape from James II. without a foreign ally: the American colonies, without France for an ally, could not have shaken off the yoke of George III.: and the disloyal Irish have (we suspect) no hope, unless America or France espouse their cause. Aid from America has of late been their constant dream, sometimes their lively expectation, while they saw with joy the enmity which was rising between the United States and the English aristocracy during three continuous years. With the final disappointment of that hope, they may become less unreasonable; certainly less able to stir up their countrymen to any attempt against the imperial claims of Queen Victoria.

Our position is thus much firmer than it was. Protestant England is at a crisis, in which it can make concession with high advantage, and with a better hope that it will really heal the national division. In writing these words, let us not be thought to say that the Irish Church is the only mischief to Ireland. If we dared to go beyond that one topic now, we should range too widely; but we may drop the remark, that with the splendid exception of the Encumbered Estates Act, Ireland has had little effective legislation from England. Of the Poor Law we cannot trust ourselves to speak; but English legislators themselves are apt to confess that they do not understand Irish needs or Irish rights. Enormous arrears have to be worked up—and, as we venture to think, by some totally new organisation—before Ireland can be well governed or contented; but the first matter of all is to reduce to its minimum, if we cannot remove, that perpetually fretting sore which religious friction keeps up.

If, during the present period of our strength, while no fear of European war comes near us,—while convulsions in India (if, alas! still to take place) are matters of the future,—while the United States have ten years' work on hand to pacify, reorganize and develop their own disloyal members,—the English Cabinets

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persist in upholding in Ireland the offensive Church Establishment which Time has tried and condemned,—a day of weakness may come to us, when we shall repent too late. But we return to the more limited topic of Toleration.

Hitherto, our notion of religious toleration towards Catholics has run into mischievous error by assimilating them to Protestant Dissenters. Those who call themselves Liberal politicians among us, Whig, Radical, and Dissenting, we venture to think, have often been here less near to the truth in their arguments than many Tories, who rightly protest that the case of the Catholics is wholly peculiar, and must be judged of by itself. Protestants differ from one another, not in kind, but in degree; just as do the different Orders of Catholics among themselves. Lord Macaulay declared, that, if John Wesley had been in the Catholic and not the Anglican Church, the Pope, instead of ejecting him, would have erected a new Order and made him its head. History in many centuries exhibits to us the vehement controversies of schools interior to the Catholic Church; which in some cases invoked the persecuting arm of the civil Government, as did the Jesuits against the Jansenists. But the Roman Court in general has prudently regarded all as good Catholics who are fundament ally loyal to its cardinal principle, viz., allegiance to its authority. Between Protestant and Protestant, when they differ in detail of doctrine, as Jesuits from Jansenists, the *primâ facie* duty is, that each shall recognise in the other the freedom which he claims for himself; and that they shall amicably make arrangements, so that the views of each shall be heard in turn. Since no one claims to be infallible, truth is to be elicited by the co-operation of all in a common system, which, like a scientific association, shall understand when dogmatism is unseemly, and what class of men cannot be extinguished by it. Spirits which are too fiery to work together in one congregation may yet profitably co-exist and co-operate in different parts of a great National Church, just as Benedictines and Franciscans, Jesuits and Jansenists. Hence on the Protestant statesmen,—or rather, on every one who has a voice in the enactments of a Protestant National Church,—the onus rests, in each case, of justifying himself, if he exclude any Protestant sect. His task and problem is, to construct or uphold an organisation elastic enough to accommodate all who combine Christian moral sentiment with the fundamental Protestant idea of individual responsibility to God. If, in order to banish heathenism from

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our homes and hearts, and impart religious sanctions to our mutual duties, we maintain National Churches at all, there is every reason for making them as extensive as we can, and taking up, if possible, very diverse minds, and thereby the whole population. When men equal in ostensible moral worth, equal in talent and acquirement, with equal opportunities of study, stand face to face as scientific disputants concerning questions so arduous as theology opens, the civil power has no ostensible right to pronounce against one and for the other, any more than in the controversies of physiology or chemistry. In such case the word Toleration is apt to be offensive, because the contending parties agree in morality, and differ only on science; on questions of literature, or history, or metaphysics. Hence we say, *primâ facie*, a Protestant National Church should not "tolerate" any classes of Protestants, but should embrace them, as Catholics embrace the various Orders of their Church. And if an exception is made, it has to be severely justified, by alleging (suppose) fanaticism which runs hard into the profane or the immoral; or perversity which will not concede the obvious rights of others, but insists on tyrannizing upon principle. This argument holds, we say, in regard to *all Protestants;* but it holds with Protestants *only;* for they alone stand side by side as brethren, equal in right, and separate in responsibility to a higher tribunal. This it is which sets their differences of opinion on a par with differences of science; and this it is which makes it possible for them to be citizens of a common religious community, which knows no earthly authoritative judge of truth. But Romanists cannot, any more than the Mohammedans, enter a National Church on a level with Protestants,—not even on a level with the most Papistical High Churchmen, who eyes a cardinal's hat with wishful sorrow. Even when they believe (in appearance) the same dogmas, they believe them on different grounds, and in a different moral state. Take, for instance, the doctrine of the Trinity. This is received by a Protestant archbishop because he finds it in the Bible, and because his private judgment of that is confirmed by (let us say) the four first Councils. But with the Romanist the admission of this doctrine is a very small thing in itself, and is a mere corollary to the total surrender of the judgment to the latest authentic decisions of the Church,—which Cardinal Wiseman on his deathbed summed up as the creed of Pope Pius IV. This creed is required of every proselyte, and is sworn to on taking any

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degree, or being appointed to a university chair. Besides its other sweeping declarations that the person admits and embraces all ecclesiastical traditions, all observances of the Church, and Holy Scripture in that sense only in which the Church interprets it, it closes with the words: "I acknowledge the holy Catholic Apostolic Roman Church for the mother and *mistress* of all Churches; and I promise *true obedience to the bishop of Rome*, successor to St Peter, the prince of the apostles and vicar of Jesus Christ." The obedience promised, extends to matters of faith, and indeed concerns these primarily: hence the Catholic clergyman is not in the position of a man of science following truth through difficult and profound investigations; nor is it unseemly in a free and popular legislature to take a decisive part against him. In founding an astronomical chair at a university, it would be an absurd and pernicious error in the legislature to prescribe what doctrines the astronomers should teach; but it would be quite proper not to allow the chair to be occupied by men who avowed it to be their duty to teach such astronomy only as has been established in Spain or Italy by the local authorities. Such teachers disavow the free research and personal judgment which is the essence of the astronomer's duty. To admit such into our chairs would obviously vitiate science by converting it into something essentially different. Nor is this all: but common-sense suggests what the controversies of Romanists confirm, that the research of a life is insufficient to ascertain *what* that is which the Church "has always taught and still teaches."

The doctrine of "Implicit Faith" is practically inevitable as a complement to the creed of Pope Pius. The mass of devout Romanists must always be liable to the unpleasant accident of being "heretics" unawares, by falling (for instance) into Sabellianism or Nestorianism or Arianism or into the Monophysite heresy, when they sincerely thought they were believing what the Church believed concerning the Trinity. Shall these well-meaning men be condemned as not having "the merit of faith"? It is quite impossible: they must be judged, and are judged, by the Church as having *implicit* (or virtual) faith in Athanasianism, even if, by an unlucky blunder, their *explicit* faith be Sabellianism. The result is, that the research of truth being forbidden, truth itself is avowed to be secondary, obedience to the bishop of Rome to be primary. Thus, when by accident a Protestant and a Catholic assent to the same doctrines, it

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does not denote any intellectual or spiritual approximation. A wall of partition always remains between them; a gulf which cannot be passed by gradual steps. We may, on the whole, believe that the moral benefit of the Catholic clergy is greater than the drawbacks. We may be willing to sanction the appropriation of public funds to support them, as at Maynooth, or as in a Prussian university. We may maintain that Maynooth ought to be forced to migrate into Dublin University. We may wish the Catholic priests of Ireland, as of France, to receive direct payment from the State. But two facts would remain unchangeable: first, their Church would still be an uncongenial, hostile, arrogating system with no common ground of science on which we and they could stand: secondly, we on our side could not be in frank, unsuspicious amity with them, but must ever be on the watch as against an encroaching foe. The reasons for this deserve a more minute exposition.

There is a fundamental *moral* difference between us and them, attested by endless historical proof and not at all denied by themselves; which, indeed, the recent Encyclical letter of the Pope has brought out into a brilliant light; a moral difference of far greater political importance than if, like Mohammedans, they practised polygamy. We refer to the doctrine of persecution. We will not retaliate evil deeds for evil desires or evil theories. We will not deprive Catholics of so much as one right, on the ground that they desire to deprive us of all rights; but while they teach in England and Ireland, and enforce in Rome, Spain, Mexico, and wherever they can, principles of persecution, we must in prudence never forget this, but beware of their tendencies. English Catholic laymen used to be sincerely shocked by the imputation that they desired to persecute any one; and forty years ago English Liberals generally believed Catholicism *to have changed* in this respect. The new growth of Jesuitism was hardly noticeable till Charles X. came to the throne of France. But the universality of Ultramontanism in the superior French clergy has now long been a certain fact. The Irish priests from Maynooth were notoriously, even so long as forty years ago, a totally different class from those who formerly were educated at Douay, before Lord Castlereagh devised his unhappy scheme for breaking them off from French influence by founding Maynooth. The experience of Mexico in this same interval, the revived intolerance of Spain, and the reaction in Germany since the Arch

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bishop of Cologne fell into conflict with the late King of Prussia, —must all be remembered. In Tahiti we first had illustration of a modern crusade, when French ships were sent by Louis Philippe and Guizot to conquer in the interests of the Catholic Church an island which had been brought under Christian civilization by Protestant missionaries. How far the proceedings of French arms in Madagascar, in Cochin China, and in Mexico differ from those in Tahiti, our limits forbid us to inquire. But that a marked, vehement, wide-spread reawakening of Romish principle has taken place in the fifty years which have now passed since the restoration of the Bourbons by the arms of the allies; and that the active proselyting doctrine is thoroughly Ultramontane; no one can question. Nor is it possible to doubt that this school deliberately justifies the *autos-da-fé* of Spain, and the massacre of St Bartholomew's Eve, to which that very devout pope, Gregory XIII., gave his solemn official approval. We observe that Dr Newman, in his *Apologia*, while declaring that he believes it would kill him to see an *auto-da-fé*, does not breathe a suggestion that such deeds were not righteous and acceptable to God. It is very unintelligible to a Protestant, by what sort of reasoning a humane man can ever overcome the promptings of conscience which condemn these atrocities. We have had more than one opportunity of learning from a Romish priest, once an esteemed clergyman of the English Church, what is his theory, and as we presume, that of his co-religionists. As we have heard it more than once, we cannot mistake; and it may have some interest to our readers.

He laid as his foundation the natural duty of the State to suppress many iniquities and many forms of immorality; but urged that Duty is practically limited by Power, and the power of the state by the enlightenment of the public conscience. When there is great general depravity, offences must be passed by (for the hardness of people's hearts), which, when the offenders are a weak minority, can be and ought to be punished. The punishment which is in the latter case recognized as wise and righteous, would have seemed an outrageous persecution in the cruel or impure age. Just so, if a time shall come, when the public conscience is more enlightened than now, and discerns heresy and false opinion to be a moral guilt (and in that age it will be a greater moral guilt than now; for in dark ages God himself is said to "wink" at human transgression),—in the more enlightened age it will be thought quite as natural, as right, as

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humane, as pious, to punish disobedience to the Church, as now to punish breaches of the law and contumacy to a superior. In past days, which, in comparison to these, were ages of faith, many things could be punished, and were justly punished, which now, by reason of the hardness of men's hearts, cannot be: in fact to attempt it would be wrong, since it would stir up fierce contest, perhaps war, with no commensurate good. But though temporary causes may justify and necessitate a suspension of law, the fact is far from a condemnation of the law suspended. Under happier circumstances it may be revived. To condemn the Catholic Church for its action in the middle ages, because it cannot so act now, is an ignorance. We have ourselves been reared and nursed in ignorance, and perhaps ill appreciate our own guilt: thus we have an exaggerated sympathy with those who in former days, at the instance of the Church, underwent punishment as criminals. That is at least *possible*. One who is reared as a Protestant, carries perhaps with him into the bosom of the Catholic Church erroneous sentiments on this head which are difficult to subdue. It is a cross which he has to bear. But the theory of the matter is very plain, however hard he may find it to tear out of his heart the roots of old error.

We by no means infer that the above exhibits exactly the argument by which all Romanists satisfy their conscience as to the legitimacy of persecution; but they have to satisfy it *somehow;* and their moral theory is here flatly opposed to ours,—is, in short, essentially intolerant. We maintain that morality is to be judged from human nature collectively, not from special countries and times: and that whether the professors of a theory, in a particular land and time, be few or many, is a matter which cannot justly affect their legal status: in fact, the weaker they are in numbers, the baser is the crime of persecuting them. At this moment, precisely because English Romanists are so small a minority, all argument and all excuse is absent for imposing any legal disabilities upon them. Neither in Parliament nor in the municipalities nor in social life ought their legal rights to be one iota less than those of Protestants. Whereas in Ireland, by reason of their numbers, they are formidable; hence, prudential reasons of self-defence may, with more or less plausibility, be urged as grounds for excluding them from power. The argument above exhibited implicitly avows that Romanists will persecute us *as soon as they are able;* and that *autos-da-fé* were right, *as long as they were possible*. If Europe could retrograde three centuries,

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such sentiments would, if not justify, yet assuredly excuse, and clear from all imputation of bigotry, the men who in self-defence excluded Catholics from power. For we have here to deal, not with a mushroom system, like a fanatical Protestant sect, which can be despised, but with a power whose roots are in antiquity; which stretched over Europe before our modern dynasties were born; which engages the unlimited enthusiastic allegiance of masses of men in every nation of Europe; which has for ages acted upon *precedent*, and maintains the theory that it is infallible; so that of all existing powers, there is none whose future may be so fairly estimated from its past. Now, when in that past we find deeds of atrocity most hideous, which none can disown without denying Papal infallibility, and none can execrate without execrating popes,—it is not a question of abstract religious theory between us and them, but one of political self-defence for our primary human rights.

Next, it is impossible to forget the modes of warfare which they employ. Among Protestant Dissenters it may be said (plausibly, if not truly), of the Wesleyans, that they study to accumulate property, organize skilfully, and centralize power in a few hands; and that they work on men's fears by preaching future torment. But even they do not use such weapons to drive men into their sect, nor do they admit the thought that salvation is risked by not being a Wesleyan. Their very weaknesses lie on the side of affinity for a State Church, into which they would gladly be incorporated. Thus among Protestant Dissenters there is absolutely no body analogous to Catholicism, which notoriously has not only allurements of fine art for the refined, of rapturous devotion for the mystical, of asceticism for the morbidly penitent, but also baits of power over men's minds for the ambitious, flattering externals for the courtly; while historically we know its propensity to screw money out of rich young ladies or dying worldly men, and accumulate it as a source of permanent power; nay, to this day, the Church sells for money the remission of purgatorial torments.* Moreover, the vast scale of its organization, and its habit of concentrating its force on even petty local objects, make it a social nuisance in the direct proportion of its power.

Our ancestors rested much on the allegiance of a Romanist to

* In Mexico, the papers have stated, a great Church lottery of souls was lately held. The lucky soul, which got the prize, was to have so many thousand masses.

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a "foreign prince" as disqualifying him for trust; but whether the head of his Church be strictly a *civil* prince is a secondary question. The main fact is, that the Church is a formidable organization, stretching over many lands; proved by long experience to be fierce and tyrannical; and upholding a *political morality* essentially opposed to our own. If a year ago we had been about to write thus, we could have quoted the Pope's Concordat with Austria as denoting the aspirations of the Papal See: we might also have pointed at the abduction of the Jewish boy Mortara, as an indication that, as nothing is too great, so nothing is too small for its cupidity. But we had not then the Encyclical letter as a compact trenchant demonstration that no humiliations of the Papacy can quell its fierce fanatical hope of even yet cutting down heresy by the civil sword. None of these frenzied convulsions, in the present advanced state of Europe, seem to us to justify any measures of degradation and depression, such as our ancestors thought necessary against Catholics. The conduct of the Emperor Maximilian in Mexico proclaims that *the rod of the Church is indeed broken;* for when brought thither by the arms of France, in response to the clergy who were enraged by the measures of Juarez, he with the utmost decision and coolness carries out the very measures of Juarez against them. The right mode of fighting against Romish error is to give to Romanists *full equality;* insist on free press, free speech, and popular education, and *tear out the roots of popery from the Anglican Church.* By these methods it will infallibly be destroyed. But "full equality" certainly implies that the Irish Protestant Church shall not be left in its present state, nor all the ecclesiastical funds refused to the only priest whom the nation trusts.

Nevertheless, though we do not fear that Catholicism can ever regain even in Ireland that power of persecution to which it clings in Rome, Spain, and Mexico, its increased control over public education in France is a warning that many dangers still remain: and (what we desire particularly to mark) the doctrine of persecution is one which cannot be confined to *political* action, but must necessarily pervade the character, colour the life, and affect *social* details. The system which would, if it could, persecute in the old-fashioned Romish method, by the civil power, will, where it can, do many smaller acts of social persecution, or high-handed dealing in the same sacred cause of the "Church." Whatever were the private virtues of

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Catholic Spaniards in past centuries, they availed nothing to hinder the cruelties of the Inquisition; and whatever the private virtues of English or Irish Catholics, they can never avail to check the hereditary inveterate tendencies of the creed. Towards the theory of a compact organization its action gravitates. The great characteristic of Romanism, in contrast with Protestantism, is that the Romanist *merges the conscience of the individual in that of the Church.* The Protestant is bound to judge his Church and act in every moral question on the dictates of his private conscience; but the Romanist is tutored to *submit* to his Church, and never to *judge* it. We, knowing the humanity, the integrity, the amiableness, and other private virtues of one and another Catholic, are always in danger of erring on the side of disbelieving the possible iniquities of that Church corporately. Until Llorente published the details, from the books of the Inquisition itself, we believe that numbers of English Liberals had fallen into wide disbelief as to the truth of the prodigious atrocities imputed to that execrable institution. Not only was it founded by a pope, but it was continued and extended by other popes, even after they themselves had become alarmed by the scale of its enormities; and when its horrors were most frightful, no effective act or word was ever put forth by any pope against it. The princes or civil powers alone resisted it. France openly at all times, Venice with cautious resolute dissimulation, Joseph II. of Austria, and his brother, Leopold of Tuscany, also several successive statesmen of Portugal,—kept it in check; until finally it was destroyed by Napoleon in Italy, and by the Spanish Cortes of 1813. Yet as long back as 1481, in the city of Seville alone, two hundred and eighty-nine persons were burned alive by the "Holy Office" in that one year. It is not liberality nor charity nor wisdom to overlook the necessary inferences as to the moral state of a religious community, in which such horrors have to be checked by the powerful laity, while the highest ecclesiastics, for centuries together, even when they disapprove, dare not to condemn, to protest, or to withdraw authority. So too, when the Order of the Jesuits had been put to the proof for two centuries, and had become so hated, that not only did Catholic princes proscribe them with the rudest violence and the nations cry Amen, but Pope Clement the XIV. by a solemn Bull suppressed the Society;—is it wise to overlook the moral meaning of the revival of this Order in the present century? Considering

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the odium which Jesuits had earned, and the proverbial sting of the very name, ordinary prudence would have dictated some secondary changes of organization, such as might justify a new appellation. What motive overcame this obvious policy, and led the modern Church to brâve popular hatred? Only one motive is imaginable. The end sought was to revive the spirit, the passion, the pride and all the principles of that famous Order; to infuse into the Jesuits of this century a sympathy with the history of past Jesuits, and animate them by the records as a regiment is animated by the exploits of its heroes now deceased. It is not merely a part of the great reaction, but it attests the spirit of that reaction to be a resolute attempt to perpetuate the Catholicism of the Jesuits *unchanged*. Many Protestants are incredulous as to this. They ask: "How is such fanaticism *possible?* what hope can they have? do they shut their eyes to the fact that they are going down over all the Continent, and last, not least, in Italy?" It might be enough to reply: Read the Encyclical: if fanaticism be a fact, do not tell us it is impossible; nor are we bound to explain *how*. Nevertheless, we may observe, that in France beyond a doubt Catholicism has astonishingly recovered strength in half a century; not least under Napoleon III. and Empress Eugenie: that the present Emperor of Austria,—the first for a century and a half who had been a pupil of the Jesuits,—executed such a Concordat with the Pope as since the time of Joseph II. no one had imagined possible. As to Italy, the Roman Court does not yet believe that it is not to recover its losses: it trusted in Austria and in Spain, after it had come near to despair of France; and the Encyclical is in substance a fanatical defiance and reproof of all three powers, no doubt with a belief that at least Spain, Austria, and Catholic Germany will be rallied by it to the Papacy, if Napoleon III. remain hard of heart. Moreover, the Pope's recent letter to the Bishop of Orleans is interpreted to show that he has still hopes of conquering Napoleon in France itself by the arms of the clergy. Not only so; but the great* conversion of the Bulgarian nation to the Church of Rome a few years back, and the increased power of the Church in Syria by the French expedition to the Lebanon, must aid to sustain the spirit of the Papal See. Finally, it has long been proclaimed that the Church was destined to have its most unfettered action and most

* Temporary only.

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signal triumphs in the *free* nations, and in England pre-eminently. No jealous despot can here trammel it, or extort from Rome a control in payment for tolerating any Order: and though the law forbids *foreign* Jesuits, it is not likely to be executed. The persevering earnest prayer of Romanists for "the conversion of England" is an attestation and measure of their aspirations; and no doubt has aided largely to extract from the pockets of votaries the many thousands of pounds which now in the form of new Catholic buildings adorn or deform our island from end to end.

The policy of England to Romanism from the day of Elizabeth's accession to the English throne has erred in this capital point, that it has tended to throw the Catholic *laity* into the interests of the *clergy*, and unite both against us. None can effectually bridle the clergy of that Church, but its own laity. The vices of Catholicism, of which we complain, are those of which the Catholic laity complain; and *they* are the principal sufferers. They do not like to see rich ladies, perhaps young heiresses, enticed into nunneries, and their wealth made over to the Church. They do not like nunneries to be prisons, from which the inmates cannot escape when miserable. Nor do they approve of practising on the hopes or fears of dying persons, and extorting from their penitence or their superstition rich legacies to the Church. The English laws of mortmain were made by a Catholic laity against a Catholic clergy. Nunneries are subject abroad to State regulations which do not exist in England. Instead of rousing the pride of the Catholic laity by imputing the worst to such institutions, surely our wisdom is to enquire what measures have been found requisite in Catholic countries to protect them from abuse. For a long time past England has been wholly without them, for when the abuses first became legally ascertained, the institution itself was suppressed: hence our old laws give no adequate precedents. It could never really offend the Catholic laity to follow the precedents of France or Austria, though such of them as owed their seat in Parliament to clerical influence might talk as Ultramontanes.

Of course we would rather have no nunneries at all. The worst opinion formed of them by the most rampant Exeter Hall orator may perhaps be quite true. Such a union of things as a celibate clergy,—a coterie of women, some young and many inexperienced,—auricular confession,—and the secrecy which convent-walls facilitate,—is, on the face of the matter, *scandalous*: is the

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very reverse of that which those should establish who desire to "abstain from all appearance of evil;" even if we had no such tales as that of Dr Newman concerning Achilli, or such testimony as that of Blanco White concerning the celibate clergy of Spain.

But all these topics, however necessary to be pondered in private, only cause exasperation in the Catholic laity when urged to their faces as a ground for legislation by a Protestant; nor are they at all needful, when we can simply plead that we follow precedents, proved necessary by Catholic experience. Our course therefore seems plain, totally to refuse to Catholics their postulate that religious freedom means freedom to carry out *whatever their Church calls* religious action. We do not claim for ourselves a right to lock women up, nor do we grant it to Catholics. We do not claim to invade the streets with religious emblems, nor ought they to have a privilege. We expect the right of tying up our property for religious uses to be jealously limited by law; and we will put no restriction on Catholics, except on some general principle which applies to all sects. And inasmuch as a form of nunnery is rising in the Anglican Church itself, a law may be needed, borrowed from the experience of France or Austria, to guard against dangers. *If the same law apply to Catholic and to Protestant, it may mortify the Ultramontane clergy, but will never offend the laity.* When laws conceived in such a spirit shall be accompanied with an overthrow of everything in the Irish Protestant Church which savours of domination,—when, without alienating any ecclesiastical funds from the control of the lay power, such funds shall in their fair proportion be applied to the moral and intellectual training of every large class of religionists,—we shall have removed everything which aggrieves Irish Catholics as such. A great step will have been made towards removing the disloyalty of Ireland. The Catholic laity, in Ireland and England alike, would then cease to join any clerical policy against the national Government.

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WOMEN'S WRONGS.

"*Leaflet of Clifton*," 1867.

READERS of History and Lawyers are aware that Women's Wrongs are an ancient and terribly persistent fact. American law disfranchised, in one sentence, negroes, criminals, women, idiots, and minors.

Readers of newspapers cannot be ignorant of the miseries endured by wives from brutal husbands.

In ordinary decorous families, *sons* at lavish expense are trained to self-support. The *daughters* in one class have nothing spent on their education; in another, are educated as elegant ornaments of a drawing-room, where they live in luxury for a parent's delight; yet, when he dies, and their youth is spent, they are often turned adrift into comparative poverty, incompetent for self-help.

When complaint is made of this, the ascendant sex graciously tells them, "they ought to marry;" and this in a country where women are counted by the hundred thousand more numerous than men; where also men do not universally accept the state of marriage.

Meanwhile, the law is made as if to dissuade the woman from such a remedy. If she dare to adopt it, it instantly strips her of all her property, great or little; and if she earn anything, authorizes her husband to seize it by force. In the Marriage Service, the husband, as if in mockery, says: "With all my worldly goods I thee endow:" while the law allows him to gamble away her whole fortune the day after the marriage, or to live in riotous indulgence on *her* money and give to her the barest necessaries of life. Nay, not even these, if he so insult and torment her, that she will not live with him. He may maliciously refuse her the sight of her own children, and put them under the care of a paramour, to be trained into hatred of their mother. And if, to gain one sight of them, she return to his house for two days, the law holds her to have "condoned" all his offences, however flagrant.

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The richer classes guard in great measure against the unfairness of the law to the wife in money matters, by the expensive, cumbrous, and often inconvenient system of Trustees. The poorer cannot afford it; nor is it at all applicable to a woman's earnings. From day to day we see that a wife may sink all at once into the depths of misery, if her husband be corrupted into drunkenness.

An extract from the proceedings of one of our police courts has been widely circulated in an Eastern newspaper, as illustrating (but not glorifying) English law. A man for beating his ass is sentenced to prison for a month, and the Magistrate expresses regret that he is not allowed to inflict a severer punishment. The culprit grumbles in reply that it is very hard upon him; for he had beaten his wife worse, and had only been sent to prison for eight days.

The law has of late been partially improved, and there is hope that it is about to be further improved, in regard to married women's property. But this cannot wisely set aside the inquiry —Why was such law ever made? what false principle in men's hearts or minds dictated it? does that principle still live and thrive? Unless we tear up the root of bitterness, inveterate injustice never can be subdued. To wish for justice and shudder at novelty of principle, is but to wish for an end and dread the means,—a signal and common type of weakness. Enlightened despots have sometimes appointed official Protectors of aborigines, who cannot be incorporated into the common citizenship of colonists. If the male sex had, in the eight hundred years to which England looks back, appointed Protectors of the female sex, no one can say how many of the worst oppressions might have been mitigated, or removed. It has indeed been said by some, that free colonists have been more oppressive to aborigines than despotic sovereigns. Be this as it may, it is clear that every class is practically selfish, not through evil intent, but from not feeling how the law pinches other classes. When the power and duty of the Crown to protect the weaker classes is removed, it is found that they do not always gain through the constitutional liberty of the classes above them. Hence, when the principle of self-protection for classes is established in part of a nation, events press on and on to the representation of every class, as absolutely necessary for social justice. And this points to the only creditable reply to the question, Why has our law been so unjust to women?—Because woman never had a voice in the

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making of it, and men, as a class, have not realized the oppression of women as a class. Men have deep in their hearts the idea that women *ought* to be their legal inferiors; that neither the persons of women nor their property ought to remain their own; that marriage is not a free union on equal terms; and that the law ought to favour the stronger sex against the weaker. It is remarkable that our law is more unjust to women than that of the great historically despotic nations, and in some important respects less favourable than that of the Turks. All these things point out that *equality of the sexes in respect to the Parliamentary Franchise* is essential to justice. The conscience of men is opening to the truth. The horrors attested in the newspapers, and the revelations of the Divorce Courts, forbid longer inaction. Societies for promoting women's power of self-protection by equal right of suffrage are arising. The reader, male or female, is exhorted to aid in this work, as circumstances permit.

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INTELLECTUAL AND MORAL TENDENCIES OF FEMALE SUFFRAGE.—1867.

IT is already observable that the same persons are earnest for Female Suffrage and for a more solid Female Education. This is no accident. The one object is a complement of the other.

Women, with no school but that of life, may exercise the suffrage for the benefit of their whole sex, wherever the interests of the two sexes clash. Obviously neither woman nor man can use the vote to its noblest purposes without a wide groundwork of solid knowledge. Less obvious is it, that superficiality in women's education will be undermined, when the sexes have equal weight in the ultimate decision of social questions; a topic which may here be briefly opened.

Energy in mental pursuits is with most natures dependent on the further objects proposed. A few, only a few, are naturally bent on thorough knowledge, with perhaps a genius for one study, which they will follow for its own sake: but the majority ask, what after-ends it will serve. It is in vain that a College gives prizes for Latin and Greek, if it has not a career to which they lead. It is of little avail to open free schools to the poor, if they see no benefit to be gained by their children. To have a *motive* for study which acts uniformly on minds not of themselves on fire for knowledge, is the first desideratum for any wide-spread mental activity.

If to shine in the drawing-room be the object held up before a young lady's mind, we know what accomplishments and what graces it will chiefly foster. We admire them; we praise them; but it is felt that to stop there is superficial culture, having in fact little moral basis. Unless the Philanthropy native to the sex have given sufficient impulse to solid thought, their conversation soon exhausts its topics and becomes insipid. If it is to be *only* volatile, if it *always* dreads depth and earnestness, the person who lives much for it can hardly be deep and earnest. Conversation must often be, and ought to be, on the surface alone of things; but even that is most charming, when a richly endowed intellect underlies and the heart is full of noble desires.

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Philanthropy and Politics, now flowing apart, will unite in one stream, when philanthropists become conscious of power to reach the sources of crime and misery, and when statesmen understand that their functions are assigned to them for none but a philanthropic end. While women are totally unable to influence public measures, no sooner are they relieved from inevitable duty, than, like men under despotism, too many of them tend to frivolity or to petty thoughts. Religion and kindliness may carry some into efforts to relieve distress; special studies may attract others; but these are the exception. How few of us will or can persevere in self-denial, if we seem to be striving for the impossible; if, while we are painfully draining a small pool of misery, a new and full tide pours in! Under the crushing belief that, labour as we may, the result will be imperceptible, most of us turn away from a heartbreaking task, and try to forget other people's wretchedness.

That mankind may reach a better state, philanthropy, like religion, must be the work and duty of all, not of a select few. With a view to this, women (whose heart is our great reservoir of tenderness) must have a hope of, not merely palliating, but, uprooting national evils. This hope will be born within them, when with a voice in public counsel they get some power to reach the *causes* of evil. Men too will then imbibe more of gentleness and sympathy; men, who have hitherto held nearly exclusive sway over human history with so very meagre success. Party politics will go down, philanthropic politics will come up, when it is understood that, because our common welfare is our common duty, therefore we are *all* bound to become politicians in that wide and genial sense, in which an ancient philosopher pronounced, that "the human being is a political animal."

Women who are aware that the power gained by knowledge may bring substantial benefit—to themselves first, and through the public efficacy of their vote, to others also,—will not, collectively as a sex, prefer the abstract and pretentious to the solid and fruitful. If then in the richest classes they continue to care chiefly for showy accomplishments, they will have to feel the superior influence of other women. The great majority will be unable to limit their aspirations to the drawing-room, and to these study will present itself in a new point of view, when it has a practical bearing. They need *first*, not high science, nor knowledge of things remote in time and interest, but a thorough practical understanding of that world with which we are in immediate contact.

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The laws of Health, the properties of Food, the laws of Heat, the laws of the Market, the doctrine of Vulgar Fractions and of Compound Interest, may be called homely science, but are as important to women, married or unmarried, as to men. To understand daily facts, modern languages, the state of modern nations, the origin and history of landed property, and the whole of our complex modern life; to be sound in all elementary knowledge and in the homely branches of science just mentioned;—are really the rudiments both of politics and of practical good sense. With SOCIAL UTILITY held up as the end of ordinary and general education, the studies of women, even in classes which now live for elegance, will gravitate towards solidity; while the genius of the sex itself assures us, that refinement and grace will never be too little valued by them.

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CHARLES SUMNER'S ALABAMA SPEECH.

To Editor of "Morning Star," May 11, 1868.

SIR,—Americans in this country urge me to express publicly my judgment of Mr Sumner's recent speech, which I lament to hear has aroused a hostile feeling among those who were the best friends of the United States during the war. May I hope that your columns will not be too full to admit my letter.

I find in his speech nothing new; nothing beyond what was in his great speech of Sept. 10, 1863, on "Our Foreign Relations." Of the two speeches that was the more excited and exciting. He evidently was apprehending that we might enter war against the North voluntarily, besides the danger of the pirate ships rendering war between us inevitable. I then justified Mr Sumner's tone, as well as his arguments, *in the interest of peace.* Cicero, in reproving the violent language of Roman tribunes, says that after all it tended to make the national struggles less dangerous: for when the people found that their official protector would speak up for them, they felt it needless to take matters into their own hands. So, the evils which the United States were suffering from England being felt in wounds and blood, death and impoverishment, no dissimulation on the part of American statesmen could do anything but exasperate. It tended to soothe them, when men like Charles Sumner showed to England her injurious conduct and her sin. I hold this to be nearly true now, but less intensely. I regret that it has been forced on Mr Sumner to repeat somewhat less vividly the same bitter complaints. But I cannot see in his speech any menace of war, direct or indirect, or anything to denote that he does not look on the thought as horrible, and as an utterly absurd remedy for the past. In the close he says: "I know it is sometimes said that war between us must come sooner or later. I do not believe it. But if you say, *it must come,* let it be later, and then I am sure it will never come. Meanwhile let good men unite to make it impossible." I am told that an English newspaper which was strongly with President Lincoln during the war, comments on this to the effect,

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"Well, then, if we find that war must be, let it be at once, and let us have done with it."

Mr Sumner discerns that the treaty patched up so hastily by Mr Reverdy Johnson would make exasperation chronic and intractable: for it would stop the mouths of American diplomatists against further demand or complaint, and it would give redress for no wrong but the smallest part of what was endured. Therefore it would leave a permanent sore in the public, a permanent topic for agitators who have not the responsibilities of statesmen. That the treaty has been rejected in the Senate by fifty-four to one, ought to show Englishmen how entirely Mr Reverdy Johnson failed to represent the national feeling. Every fact connected with his conduct here shows that he represented the South, not the North. He was very candid. It was our fault, if we did not understand his tendencies. Mr Sumner quotes testimony that the Confederate Loan went up from zero to ten, as soon as it was ascertained that the treaty was signed; it being believed that its words will cover the demand of those British subjects who have suffered loss by lending to Mr Jefferson Davis, President of the rebel South. It does not seem to show in us much coolness of judgment to treat as "a menace of war" the decisive rejection of a treaty negotiated for a President and by a Secretary and Ambassador, whose interest and sentiments are *not* those of the North. The North it was which suffered from our fostering of its malignant enemy,—the enemy of justice, freedom, and civilization.

But there is a matter of fact which Sumner neglects,—a fact which I suppose few of us know. I learnt it only last year accidentally from the Report of the Paris Anti-Slavery Conference of 1867. In it is printed an elaborate memoir by the Hon. John Jay, on Emancipation in the United States, which is really a historical Review. It states (p. 102) that in April 1861 the Secretary of State (Mr Seward), writing in the name of President Lincoln, advised all the American ministers in Europe,—and the European Cabinets hastened to accept the Assurances,—that the President, *so far from rejecting, willingly accepted the doctrine*, that the Federal Government could not reduce the seceding States to "obedience by conquest;"—an avowal which was promptly responded to by proclamations endowing the Slave Power with belligerent rights by sea. That our Government acted very wrongly, is my belief, as deeply as Mr Sumner's, and I admit that we have to suffer for errors or misdeeds of our rulers. But

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so must Americans suffer from any blunders and stupid policy of their Presidential Cabinet. When Mr Seward went out of his way so needlessly to tell our Government that Mr Lincoln had no right to constrain the South, any friends of freedom and right within our Cabinet were thereby paralysed. In the face of Mr Lincoln's confession, they had no power to resist others who inferred that when Mr Lincoln tried to do what he himself said he had no right to do, the South had a right to resist him; therefore, it was proper for us to recognize their right. Well may Mr Seward now wish to close the discussion, if to continue it will fix upon *him* the chief blame of that recognition of belligerency which Mr Sumner justly treats as the primal cause of mischief.

Mr Sumner, alas! has plenty to say against us; but unless the Hon. John Jay misquoted the despatch, I no longer see how a reasonable man could expect a Royalist Government not to declare the combatants equal, when the President volunteered to tell us that he had no right of coercion. The Hon. John Jay says, that *at last* the American people, *step by step*, brought their Cabinet round to a sense of its duty and dignity. Well! so did our people happily at last bring our Government round, Adversity taught Mr Lincoln; a sense of danger perhaps taught Lord Palmerston something. Mr Sumner unavailingly asks for expressions of *regret* and *contrition*. Without a total change of men in power, such expressions could not be sincere. We should show ourselves a very excitable people, if we make much of the fact that an Ambassador who has a Southern heart has failed to carry with him the approval of the North in the treaty which he negotiated. I hope better things.

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THE FUNCTIONS OF AN UPPER HOUSE OF PARLIAMENT.

From "Fraser's Magazine," June 1867.

IN every crisis of national contest the victory of one side or other is earned by the energies of some one national organ: and at such a crisis the partizans of the failing cause will look with zealous hope to the other organs, and are liable to ascribe to them even inordinate value. In this spirit the beaten Tories of 1833 cried frequently, "Thank God! we still have a House of Lords;"—judging with a very sagacious instinct that the Upper House, by its patient tenacity, would gradually regain much or all that had been lost to them in 1832. Conversely, if the Lords had succeeded in some great development of oligarchical power, their opponents would "thank God that we still have a House of Commons," however weakened for a season. We do not intend now to treat of these *temporary* reasons for rejoicing in an Upper House, which once more, in the prospect of encroaching democracy, may present themselves to those who would fain stem the movement. But we desire to treat the question, as fundamentally as we are able, on its own merits; assuming a nation profoundly united, equably patriotic, and desirous of such institutions only as shall conduce to universal justice and thereby to universal welfare.

Voting without deliberation, and voting in the heat of passion, are of course ruinous. If there were danger that a popular assembly would fall into these errors, the veto of a second chamber might be serviceable, to delay the decision,—to gain time in which passion might be cooled and wisdom gain a hearing. Perhaps, to those who have never very closely analysed the working of institutions, it is from this point of view that an Upper House will seem of peculiar value; namely, as a check to the passions which are supposed to agitate a highly popular chamber. Of course, we do not deny that upon occasion a mischievous bill has passed the Commons, and would have become law, had not its error been detected and corrected in the Lords.

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Such things must happen,—through carelessness, haste, or ignorance,— when an overwhelming mass of business presses upon a legislative chamber. But here, the proper remedy is, to lessen the amount of business, not to trust to a second chamber to rectify mistakes. At the same time it would be very hard to point out where the British House of Commons has sinned through heat of passion, through haste, or through refusal to hear the arguments of the obstructing minority; and has then been set right by the Lords. We believe in the value and importance of an Upper Chamber, but it is not in this direction that we find the advantages. On the contrary, such an argument proceeds on an ignoring, not only of English temperament, but of European institutions. Every Parliament in Christendom has rigid forms, expressly devised to prevent surprise by intrigue, or legislation in hot blood. Expressly because a majority must rule, and a minority must submit, therefore it is felt that a minority has always a right to be heard, just as the defendant in a judicial suit. If we must make a funereal exception, it is perhaps in Spain; but through the fault, not of parliamentary rules, but of executive unscrupulousness. Nations which adopt parliamentary institutions have not all quite the same forms of legislation; but all sedulously provide, in every chamber, against passion and surprize; all resolve emphatically to be deliberative bodies, not mere voting machines; all therefore profess that a minority, however small, must be patiently heard. In general, a small stubborn minority has great power to obstruct and delay, if they choose to avail themselves of the forms of the House, and nowhere, we believe, more than in England. Every bill must go through many stages. At each, it comes into public notice, and is generally open to criticism for weeks out of doors, besides all the criticism which it has in the House. After the bill is actually brought in, it has to pass the House in three readings, to say nothing of proceedings in committee. No such forms can exclude partizan spirit, which may doubtless be fanatical; but this is quite different from the hot blood of haste. Strong fanaticism will listen to arguments with apparent patience, but with deaf apathy. To gain time for reconsideration is then of no avail. But it seems the direct opposite of truth, to say that the British House of Commons is too rash and rapid, prone to fits of passion, and needing to be retarded by a second chamber. Notoriously we suffer under severe inconvenience from the sluggishness with which the legislature ever halts behind the urgent

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needs of the day. Acceleration, not retardation, is needed. Indeed, if we choose this as the battle-field in favour of a House of Lords, it will be joyfully accepted by the implacable enemies of that institution; who will parade the successive instances in which the Lords put their veto on the Commons, and mischievously delayed measures which were ultimately conceded to be inevitable, or short of what was just. From such instances the inference will be drawn, that a second chamber is a pernicious superfluity. But we decline to set the argument on that basis.

Nor is this all: for it is proper to gather up results from the experience of a chamber far more democratic than is our English Lower House. It is not easy to devise any representative institution more democratic in its elementary composition than the House of Representatives in the United States. Not only are all men voters, but each State has a number of representatives increasing with its population, so as to secure (by a self-acting system without need of Reform Bills) that the more populous districts shall not be outvoted by the less populous. Since every man above the age of twenty-one has a vote, the more numerous younger men, if they choose, could easily outvote the elder in the election: and if popular passion *can* agitate a representative assembly, it there may seem to have free course. Yet what has been the history of this very popular chamber? We do not refer to speeches, but to votes, to acts. No one can impute to it hasty and rash legislation. Its faults have often been those of too much caution, too slow action: but there has been no vacillation, no violent impulse this way and that way: no intolerance of deliberation, or passionate hurry. And as to its need of being *checked* in legislation by the veto of the Upper Chamber, it is on the contrary notorious that that veto has eminently been a stronghold of injustice. Since each State, large or small, sends two members to the Upper House or Senate, the slave-holders were always able to wield the veto of the Senate against any action of the Lower House in favour of the coloured race; and those Americans who approach politics solely from the moral side, pronounce that every oligarchical influence among them has been a force in the scale of injustice. No case, we believe, can be fairly made out for an Upper Legislative Chamber from such considerations.

But the argument, thus put, is unfair. It assumes a state of things in which the chamber called Upper is upper only in name and in rank, and has the mere negative function

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of a *veto;* which perhaps is not wanted at all, and certainly ought not to be its only, nor its chief duty. If we go back to the Roman Senate in its best day, we see a very different state of relations. The Senate had no veto on the popular legislation, nor, strictly speaking, any legislative power; yet all the ordinary legislation originated in the Senate, which devised and shaped bills, and deputed the consul to propose them for ratification by the popular assembly. If a senate consist of two or three hundred elder men who have served in high offices with distinction, and, among them, understand every part of the public administration, the measures which it suggests will come with peculiar weight. It may have class prejudices, but high talent. If it have the will, it is likely to have the ability, to do its work better than can be expected from a Lower House, elected by popular vote. Nevertheless, in legislation proper, it is hard to say that the legislation of an Upper House is really needed, when the lower legislative assembly contains (as in modern days) only select representatives, and not the citizens in mass, as in the old city-states. The functions of even the Roman Senate in *controlling the administration* and in *directing all foreign affairs*,—war, peace, treaties, embassies, reception of ambassadors,—were of greater moment than its legislative action, though that action was more valuable, when legislation went on by *folk-mote*, than it can be in our very different state. So too, if one ask a well-informed and deep-thinking citizen of the United States, what have been the benefits of their Senate, he cannot possibly reply, that it has stemmed the passion of the Lower House, or moulded into higher perfection their crude measures; but he will say,—it has been the organ for controlling the administration, and for directing foreign affairs.

That the English House of Lords does not perform these functions, is most true. Whether it be too late for a change, by which it may hereafter perform them, there will be great difference of opinion. Before setting forth what advantages would accrue from the change, let us consider by what organs these two vital functions are at present performed among us, and how far with advantage. And first, how are foreign affairs directed?

The Queen's Ministry, by long habit, not by any statute law, is formed under one chief, or premier, who expects a select number of his colleagues to sit with him in secret cabinet. They there resolve on their foreign policy, of which the immediate manager is called Secretary for Foreign Affairs. The Cabinet,

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representing the Crown, feels itself competent to make treaties, except that it will not promise pecuniary payments without the consent of the House of Commons. Short of this, it can make any treaty; it can put forth any manifesto to the courts of Europe, public or secret. If it cannot actually decide on war or peace, it can bring things to such a point that war is either scarcely avoidable or scarcely possible. War cannot be *declared* by the Cabinet, which is a body unknown to the law, equally with the phrase "the Queen in Cabinet." But the Cabinet can resolve to summon the Privy Council, and in summoning it can hope and count that no one summoned will come, except the Cabinet itself. That part of the Privy Council which is not in the ranks of the ministry, by the routine of etiquette stays away: such is the tacit understanding by which the power of a ministry is increased. Thus the Cabinet, assembling under the name of the Privy Council, can do that which it could not do as the Cabinet, namely, advise and effectually guide Her Majesty to declare war. In Asiatic affairs less ceremony is needed. When war is to proceed as from India, and its expenses are to be defrayed from Indian funds, it is only necessary to command the Governor-General of India to declare war, or to make war without any declaration. Our Chinese wars were strictly wars made from England at English expense: yet they were begun, carried on, and finished without declaration of war at all. As such, they were in law piratical; nevertheless, the ministerial organs of the press represented the proceeding as a great improvement; especially, because it enabled our merchants to carry on trade with the subjects of the Emperor of China while we were fighting with him, which would have been treasonable, had we been professedly at war with him. But, no war having been declared, the state of things was legally peace. Again, our Persian war was made on account of a purely English quarrel; yet it was never proclaimed in Europe. Orders were sent from England to Calcutta to make war. A fleet thence sailed into the Persian Gulf. Our representative in Bushire escaped into it when it was almost within sight, and war was proclaimed when it came within gunshot of the land. The Syrian war against the Pasha of Egypt was undertaken as a friendly aid of internal police to the Sultan against a troublesome subject, and therefore, it seems, needed no consent of Parliament and no solemn declaration; although it all but involved us in war with France; an event which could scarcely have been avoided, if our naval successes

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had not been complete before winter set in. Parliament is not consulted early enough to give it real control over foreign affairs. Hostilities once begun, to back out of them is very difficult; conversely, the time of action once lost, to recover it is impossible.

Treaties of extreme importance can be made by the Cabinet without any cognizance of Parliament. The treaties concerning Denmark, which were not heard of until they had been made, and were not understood when published, all but involved us in a war against Germany. Our many treaties with Turkey, wise or unwise, good or bad, were made by our ministries, and certainly so entangled us with Turkey as to involve great and anxious national responsibilities. A treaty made with Portugal concerning Oporto wine long hampered vexatiously the freedom of Parliament to legislate. As for secret *despatches* concerning foreign affairs, no one can say, hardly can one guess, how wide and curious has been ministerial activity. Whithersoever a ship can sail, thither a secret despatch from the Foreign Office is likely to go, nor do Englishmen much grudge this; perhaps they are rather proud of it, highly inconvenient as have been many of the results. More serious are the despatches and manifestoes which concern great continental interests. Those written in 1831 and 1856 concerning Poland, came to light indirectly and long after date; they were certainly too important to have been decided in secret by any Cabinet. When the Hungarian Diet in 1861 was engaged in not very amicable controversy with the Austrian Dynasty, Baron Eotvos, in an elaborate speech, argued that Hungary could not be incorporated with Austria, while Austria was part of the Germanic Confederation, and one of his reasons was, because (said he) England and France in 1848 declared in a solemn manifesto to the Courts of Europe that they would never consent to Germany containing so many millions. This was evidently understood by them as a threat of war on our part, if Hungary were absorbed into the Germanic Confederation. Now, it is strange that we never met an Englishman who had ever before heard of such a manifesto. It may be from our own inadvertence or forgetfulness, but we did read this statement in Eotvos's speech with extreme surprise. If an English Ministry is capable of threatening war against seventy million persons, in case of their daring to unite themselves; if also such threat can remain for years a secret to the English Parliament and public, it certainly shows that the Cabinet regards the conduct of foreign

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affairs to be its own secret privilege and almost its independent domain.

This is undoubtedly a wholly modern development, and we have first to consider whether it is an improvement on our older system. Under Queen Elizabeth the Privy Council was a reality; now it has become a shadow. The difference thus brought about is very momentous. A Cabinet is merely an oligarchy within a single party; the Privy Council embraces, like the old Roman Senate, the experienced men, of whatever party, who have served in high office. Let us take the strongest and most important case, a resolution of war. War, voted by the whole Privy Council, is decided by representatives of the collective state; but war, voted by the mere Cabinet, is a one-sided decision. Upon every ground of prudence, war should never be undertaken until after a grave deliberation in which the voice of every side of the State is heard; nay, on the ground of justice also, the objections of the minority ought frankly to be considered. To allow the in-party to entangle a nation in war by its own secret will and act, is what no one could approve, if institutions were under debate; and in fact, it has only grown up by (what we suppose may be termed) connivance and neglect of duty on the part of privy councillors. It is the more noxious in principle, because a ministry perpetually loses office, or gains office, on some side issue, wholly unconnected with foreign affairs. Thus, a Cabinet which succeeds to power because its predecessor had a bad finance minister or was ecclesiastically displeasing to Ireland, may forthwith take up foreign affairs in a spirit widely less agreeable to Parliament and to the nation than the Cabinet which it has superseded.

Nor is this all, but in the Cabinet no one votes under the same responsibility as in the Privy Council. Each vote in the Cabinet is a permanent secret, and is probably given at the last, for the sake of peace and unanimity, on the side of the majority or on the side of the most resolute minister; if there be one who has so strong a judgment that he will rather break up the Cabinet than yield it. Thus each man's individuality is absorbed in his party. But a Privy Councillor's oath, according to the old constitution, bound him as an individual to give his own best advice to the Sovereign, which he wrote down and signed, as we read. This, if faithfully retained, would forbid any one to vote for a war which he disapproved; but would force him in preference to disoblige his party. Moreover, his solemn

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sworn advice being given in the presence of political opponents, he would not be able to argue in Parliament (for the convenience and at the bidding of his Cabinet) on the side opposite to his own convictions. That a Cabinet could not endure its private dissensions to be displayed in public, we are of course aware; but our present object is to show how grave a change has been made for the convenience and by the secret will of cabinets; and how the security against unjust or unwise wars has been overthrown in the Privy Council, and (we much fear) by an actual breach of Privy Councillors' oaths, certainly not without alternate connivances.

To the foreigner, every nation desires to present itself as an unchanging unit, except in a crisis where pride has to make a concession, and submit to a total change of policy. Thus in general every Cabinet tries to adopt the dry outlines of its predecessor's conduct, even when its spirit is widely different. But this cannot give any real satisfaction to the foreigner, to whom in the long run policy guided by changing cabinets must seem shifty and "perfidious." It cannot be pretended that we have won credit with foreign nations by the general working of this institution. Permanence and individual responsibllity are elements earnestly to be desired. But we must turn to another side of this question, which assumes an ever-growing importance, and perhaps is destined ere long to eclipse all others: we mean the relations of England towards India, which are not generally included in foreign affairs.

Nevertheless, India is essentially a foreign country, almost a foreign continent. In no case can the English who reside on the soil be more than a sprinkling, and they are not yet so many as one to a thousand. The numerous nations of India have laws, institutions, languages, and manners differing from one another, as well as differing from us. In the present stage of affairs, the minister for India, a subordinate of the prime minister, is absolute despot over all Indian details, except in so far as appeal to Parliament may succeed in obtaining a reversal of his proceedings. This absolute power has in law been held by the British Cabinet ever since the Board of Control was instituted; but its exercise was generally limited to the questions of war and peace, and our relations to Indian princes; so as only indirectly to affect the internal affairs of strictly British India. Since 1858 the direct and complete internal power has been assumed by the Secretary for India, the screen of the Company being swept

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away. In the last crisis of change, a great anxiety was expressed, lest, as a consequence, the management of Indian affairs should vacillate with the changes of English ministries. All deprecated such a result; though Earl Russell dropt a phrase to the effect that he feared it could not be helped. Events have recently proved that he was right. Lord Cranborne * had addressed himself with conscientious energy to Indian affairs, and had already earned esteem from the natives of India. Sir Charles Wood was warmly remembered by them, as having been their protector against the local Indian Government and the indigo planters on some critical occasions. It is therefore the more honourable that Lord Cranborne in one short year should have been able to make himself sincerely regretted; nay, he is praised for having acted with an equity and wisdom towards the Rajah of Mysore, which, under Whig rule, had been denied. And now, why has Lord Cranborne been suddenly withdrawn from a post for which he had begun to attain the specific knowledge, and to earn that very precious possession, the goodwill of India? Simply because he did not move so fast as Lord Derby in the direction of popularizing our House of Commons. But India has no House of Commons. No one is just now proposing to introduce our representative institutions there. A faithful impartiality as to appointing natives or Englishmen in the administration, and an equitable treatment of Indian princes, are the two things primarily needful to win Indian loyalty. An energetic and equitable chief administrator ought to be kept in his post, without any reference to our English party struggles. To eject him because he dislikes English household suffrage, is as wise as to recal an admiral from the fleet when the enemy is in sight, because he dislikes a recent charge of domestic policy which the Ministry has adopted. More, surely, need not be said to show the essential monstrosity of governing India by the modern English Cabinet doctrines.

If our Upper House deserved its name, not only foreign affairs, but Indian affairs also, would be far more steadily, energetically, and responsibly conducted by it than they possibly can be by any shifting Cabinet, which is not only secret, but acts under the minimum of personal responsibility. The Cabinet, not the individuals composing it, have the odium of an unjust war or an unwise treaty. Even the speeches of ministers in Parliament are

* Since better known as Marquis of Salisbury.

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spoken for the Cabinet more than for themselves. Self-preservation is a Cabinet's first business. A man who thinks more of right and justice than of his party and of the ministry to which he belongs (short-lived as it generally is), loses reputation, and is thought to be a dangerous and shabby colleague. Yet eminently in questions of war and peace, and such dealings with the foreigner as, when unjust, lead to war, *good* institutions will make it the duty of each statesman to vote from his conscience, without regard to his party; and where this conduct is enforced by the institutions themselves, no man loses reputation by conscientiousness. The rules of our old Privy Council did at least aim at this. When we allow Cabinets to study their own convenience first, and put the laws of morality in the second place, it is futile to expect in the long run any good national results. Sow thistles, and you will not rear grapes.

But we proceed to the second head,—the Control of the Administration. In the theory of the English Constitution, as generally expounded, the Lower House of Parliament not only makes and unmakes Cabinets: it also controls them. In purely domestic matters this is true to a considerable extent. If the Ministry desired to enforce regulations offensive to any large part of the community, especially to the constituents, the Commons would not sanction the bills required. In this sense the Lords have a control nearly co-ordinate with the Commons: for money bills are seldom the sole authorisation needed for an important novelty. Not only so, but in a majority of cases the Lower House does not dare to use against ministers its power of refusing their bills; for it is always dreading lest the Ministry should resign or dissolve Parliament. The function of destroying and the function of controlling Cabinets are essentially incongruous. The hands which can destroy are by the very fact made unfit to exercise efficient control. If a particular department of government is ill administered, it is impossible to foresee whether the House of Commons, however resolute, will be able to enforce a change: for if the Cabinet refuse to yield, they may threaten to resign; and by resigning (which in such case is similar to the *strike* of workmen against their employer) they force the country to submit to the loss of ten servants whom they value, because there is (perhaps) one servant with whom they are dissatisfied; or (what is generally closer to the truth) Parliament will have to dismiss a Cabinet which holds ten good principles in order to put down one bad principle: and when it is dismissed, Parliament

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may find itself obliged to endure a Cabinet which on the whole it likes less than that which has resigned. This holding together of two great parties, each under one leader, and each regarding its party organisation as of higher moment than the judgment of the Lower House, reduces the control of the administration by that House to very narrow limits. And the power of dissolution makes the House weaker still: for a dissolution is, first, a severe pecuniary penalty upon nearly every member, especially on those who represent numerous constituencies; next, it causes so enormous a stoppage of public business, and is in itself so great an infliction on the nation, that (independently of any personal considerations) the members may think it a greater mischief than the evil which they desire to control. And if a dissolution take place, it is often impossible to make, or to expect, the elections to turn upon the particular question on which the ministry has refused to submit to censure.

Nothing of this is mere *à priori* fancy, but it is all notorious matter of fact. We know that in foreign affairs a minister can always evade the control of Parliament by giving the necessary information too late, or imperfectly, or by saying that it will be hurtful to the public interests. In 1853 Parliament was even hindered from debating by such pleas; although in the retrospect we see, that, had it then spoken out, it would have given warning in time, and would have stopped the Emperor Nicolas from the conduct which drew after it our Russian war. In 1856 again, when by a very decisive majority the House condemned the second Chinese war, begun by one civil officer on his own responsibility, Lord Palmerston, then Premier, would not endure the subordinates of the executive to be responsible to any but himself; and though apparently regretting the war, determined to persevere in it. Accordingly he dissolved Parliament, and gave out that he was not indisposed to carry a Reform Bill. The constituencies understood little of the Chinese war, and ministerial influences prevailed to return a Parliament from which several of the most active assailants of the war were absent. In consequence, no one dared to moot the subject. Neither did the opponents reaffirm, nor the minister seek to rescind, the vote. He was satisfied with his practical triumph, and with having punished those who dared to censure his subordinates.

Still more recent events have strikingly shown that even when a ministry is in avowed minority, the House cannot legislate. In the Reform Bill of this year, the majority has so dreaded to throw

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out the ministry on the one hand, or to cause a dissolution on the other, that it split into disunion and gave to Mr Disraeli a successful vote instead of controlling him. The majority can eject him, no doubt; but to eject is not to control, for ejection is too heavy and too severe a weapon to be used in any but extreme cases. As few seem duly to understand this, we will use an extravagant illustration. Suppose a law which allowed parents to cut off their children's heads or hands, but forbad all smaller punishments: it is clear that such a law would virtually decree that puerile offences should go unpunished. We regard it as perfectly barbarian, when there is no remedy for a king's misgovernment but deposition. The remedy is too severe for any but the direst and most inveterate offences; and the person to be thus punished has so great force to struggle against it, that the convulsion from the remedy in general seems worse than the disease. Now (in a measure) the same is true, when a ministry cannot be checked and controlled in detail, but can only be expelled, and a successor with the very same powers installed. Our kings have been controlled only by insisting that their ministers shall be such as Parliament approves. Ministers cannot be really controlled, until their subordinates, and every side of their policy, are open to the free criticism of an external national organ;—which among ourselves must be, a House of Parliament.

It may seem paradoxical to say it, but we believe that even now the House of Lords (for good or for evil) *controls* ministers more than does the House of Commons; and all the more, because it cannot *eject* them from office. The influence is generally unseen to the public and untalked of, expressly because it is so effectual as to need no struggle, no discussion. The Lords are to the ministry a fixed unalterable fact. No dissolution inconveniences that House, much less changes it. For popularity it cares little: nay, reading only what is acceptable to an aristocracy, it is often profoundly ignorant of the national sentiment. A ministry does not greatly need to please the Lords in its ordinary executive action; for over this they have no veto: but in legislation, it is most anxious not to encounter their opposition, yet never thinks of resigning, if opposed. Thus the control is not a mere grumbling too late, but acts by anticipation, to prevent, not to punish; and this is the best form of control. (Whether the Lords use it wisely or unwisely, is no part of our present argument.) Moreover, although it is limited to legisla-

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tion, and does not touch money-bills, yet it indirectly concerns a very large and important part of *government*, in a nation whose population increases; moreover, whose art and science, trade and manufacture, are receiving perpetual development. The government of such a nation cannot go on without a perpetual addition to its laws, over every one of which the House of Lords has a veto. For under "laws" are included not only general propositions, but local and even private bills, and enactments that facilitate the machinery of government. The criticism of any new schemes whatsoever by the House of Lords is generally more thorough and searching than that of the Commons, not solely because the Lords have less to do (though there is much in that) but also because they are far more fearless, and are less biassed by side-glances at the danger of disgusting a ministry.

Now in regard to appeals from India, let us contrast what is with what might be. When Lord Dalhousie annexed Sattara to the British dominions, Mr Hume tried to move Parliament against it. The merits of the question were not for a moment listened to. One consideration prevailed. "It will never do to censure, and probably eject, a Whig ministry with which we are satisfied, and bring in a Tory ministry which we do not want, about a *mere* Indian question. And, after all, what do we understand about India? Mr Hume may be right; but if once we begin to interfere, we shall have to govern all India; and we cannot do that." The House did not try the question as judges between the people of Sattara and the Governor-General: they practically refused to try it at all. In consequence Lord Dalhousie proceeded with his confiscations of Indian royalties, until Oudh also was swallowed. The Princess of Oudh came in person to England to bear her appeal,—whether to Queen Victoria or to the Parliament, she did not distinctly know. Her appeal could not get any hearing, and the Indian Mutiny followed, as our frightful punishment. Since then, an Indian Prince (Azeem Jah of the Deccan, if we remember the name) brought before our House of Commons his appeal against an Executive measure which deprived him of his throne. But the benches were emptied by the unwillingness of the members to vote, where the vote ought to have been a judicial verdict; and his appeal was disposed of by a coterie of ministers and placemen,—by that very Executive against which he came to appeal. We do not write this as blaming the individual members of Parliament; for no better result could ordinarily be expected. The functions de-

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manded of them are evidently too numerous and too arduous. If on the contrary the appeals from India had come legitimately and directly to the House of Lords, there would have been a new tribunal and a real hearing. The treaties by which Sattara was constituted an independent kingdom would have been judicially considered, and Lord Dalhousie's frankly uttered argument for annexation (viz., the fact that, until annexed, Sattara could not be taxed for the benefit of the British treasury) would have shown them how little judicial was *his* treatment of the subject. It is certainly within possibility that the House of Lords would have saved us from the Indian Mutiny, if, for the ten years previous, access to it as a Court of Appeal had been open to Indian princes.

We have not yet mentioned the exceptional, yet vital, function of this House, as the highest Judicial Court, dealing with appeals which transcend the ordinary law. It is long since the Commons have accused a minister before the Lords, and there is strong reason to believe that such an event will not occur again, Nevertheless, it is necessary that such a Court should lie in the background as a possibility: and meanwhile, there are other matters on which no year passes without appeal to the Lords. If we were making new institutions in a new world we might inquire whether a Supreme Court, like that of the United States, without any legislative functions at all, might not be better: but the events at this very moment going on across the Atlantic warn us of the weakness of the American institution. The Supreme Court, while we write, is dealing under judicial colours with questions essentially political, which it is simply impossible for the Congress to allow it to decide. The interval which must pass before our words meet the reader's eye, makes it wiser to say only that the North already mutters the threat of reorganising the Court, instead of enduring its jurisdiction. These events are a warning to us, that the highest judicial questions, involving great political issues, cannot be entrusted to a mere bench of judges, who are but a few accomplished individuals. The verdict will have to be given by a political body, and that, the highest in the land. A select Upper House is evidently the fittest tribunal for such critical decisions, and might yet be of vast use to us in our Indian perplexities.

No constitutions intimately known to us have been more elaborate than those of ancient Rome and the modern United States; and in this connection it is of high interest to consider

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more in detail the specific action of the *Senate*. The Roman executive had nothing approaching to our Cabinet system. It consisted of very numerous individuals elected by popular suffrage, neither in mutual harmony, nor in any general subordination. A consul was superior to a prætor or a quæstor, where an action was open to all of them in common; but two consuls, as two quæstors, were equals in dealing with any joint duties, and were often in no amicable relations. From a miscellany of executive officers thus elected, one might have expected a hideous mismanagement of affairs; and undoubtedly many a disastrous military defeat was incurred from the want of capacity in generals-in-chief thus elected. But that happens also (and perhaps as often) when seniority, or purchase, or royal rank, or aristocratic favour determines who shall be commander-in-chief: at the same time it is remarkable how seldom any military evil was ascribable to the popular civil election of the secondary military officers, whom we may call *colonels*. But we must not deviate to the army. The civil executive of the Romans, after the Punic wars, became vast: the topics of high policy were numerous: the reorganisation of conquered countries involved an immensity of intricate business: no end of questions had to be discussed and decided. Moreover, the whole of the high executive within Rome itself was entirely changed every year, and no man could hold office in consecutive years. He was elected for one year only, and he must descend into a private station before he could become a candidate again: such was the rule, and only for high public reasons could it be dispensed with. And as to be re-elected into the same function after a year's interval was extremely rare, and very seldom desired, the offices of every year were filled by men totally new to them. Of course the clerks remained unchanged, and were able to give indispensable information. Nevertheless, an Executive so arranged may seem chaos, and nothing else, to one who has looked on cabinet-unity under a single chief as the standard type of government. Why then was there no chaos? Why was the Roman executive eminently energetic and eminently successful in the objects immediately aimed at? The answer is short: Because the Senate guided and controlled it: *prescribed the policy, and required the execution.* Yet Englishmen who assume to be practical and experienced, and to speak with authority, tell us that it is absolutely *impossible* for a numerous body, a Senate (say) of three hundred men, to draw up, dictate, and enforce a policy for

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executive officers to carry out: nay, one is reproached with ignorance and absurdity for expecting any efficient control of a ministry by a parliament. To say that it is impossible to either *English* House, constituted as they now are, and banded into parties as they now are, is one thing—and may be true: to say that it is impossible to a rightly constructed senate is clearly false; for it is at once refuted by the Roman Senate, which had to deal with the problem in its most difficult form. To allege therefore the inability of our English Parliament, will simply prove the need of more fundamental reform than the objectors are willing to contemplate.

The American executive, and the functions of the Senate towards it, differ very widely from those of ancient Rome. Here also the popular will has in many cases an initiative in pressing forward an individual for high office: thus, a particular State may warmly urge and request that one of its citizens, whom it names to the President, may receive such or such a post. Nevertheless, it is only a petition, only a suggestion; though not offensive as such, and often accepted. But the actual appointment is *made* by the President and *confirmed* by the Senate; and this joint action is expressed in the diploma which confers the office. Thus the Senate has a legal and effective veto on every appointment. We had something of the kind until 1858 in regard to the Governor-General of India, who was appointed by the Crown and confirmed by the Hon. East India Company. Hereby the Company not only had a veto, but in an extreme case, might withdraw a Governor-General, and in fact depose him by a simple act of will. This the Company actually did in the celebrated case of Lord Ellenborough, because they disapproved of his filling civil posts with military officers. It cannot be doubted that the American Senate, if it were united and resolute, might in like manner eject by their simple will and two-thirds vote any officer whose diploma was endorsed "with the Senate's consent." But this is a case quite exceptional, and could hardly occur unless treason was apprehended and the President blind or in connivance. The practical daily efficacy of the Senate's control does not turn on its power of ejecting, but on its need of concurrence in appointing: and experience shows this to be of very great importance, even while the President and the Senate are in general harmony. Since 1860 the civil war and its consequences have made motives and events too complicated to be treated briefly; hence we confine our remarks to the seventy

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years which preceded 1860. Both at the first, while the fathers of the republic lived and their sentiments ruled, and afterwards, when zeal for slavery became a creed and a fanaticism, the majority of the Senate was in general sympathy with the President. Whatever may be said against the policy of the republic in the second period; if we call it grasping, unscrupulous, rude, inhuman; yet no one can deny that the offices were filled by energetic and competent men, who did efficiently the task confided to them. No disasters were incurred even in new and difficult undertakings, such as the Mexican war, by favouritism or party exigencies: yet most of the later Presidents were men of inferior talent, to whom the consistent energy of the administration cannot be imputed. Evidently then we must impute it to the control exercised by the Senate.

There are many Englishmen who talk high about some "eminent administrator," who is one day or other to set us all to rights, and to still the outcry for administrative reform. After this, it seems, we are to have no more Balaclava blunders, no inefficient military commanders, no ruinous admiralty jobs, no absurd martello towers or useless fortifications, no mortality in soldiers from injudicious orders and unhealthy barracks, no appointment of high-paid superiors for doing little and that little ill, while ill-paid subordinates do much and laboriously. But, when the revenues to be spent yearly amount to thirty or forty millions, and men who wield political influence press on a ministry to give appointments to younger relatives and other dependents, nothing is more evident than that the influence of the wisest and most energetic administrator can only last for a short season. The odium which he encounters is great; attacks on his policy by vehement haters must undermine his power, except when he is the visible organ of an administrative revolution popularly predetermined. The pressure of private cupidity is eternal; and to expect a "great administrator" as a permanent barrier against it, is as hopeful a dream as that of a "judicious despot." We must not count on pre-eminent men, but only on average goodness, average firmness, and solid talent: and to bridle universal cupidity, we must look to good institutions, not to superiority of individuals.

Notoriously, the pressure of partizans for office is often highly embarrassing and unacceptable to an English ministry. Seldom indeed can a premier dare to act the part of a Chatham, be his administrative ability what it may. Against his will, he finds

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himself forced to give this and that piece of preferment, and (unless whispers are very false) is sometimes disgusted at the bad appointments which the necessity of party extorts from him. He would be glad of some decent ground of refusing, which the applicant must admit to be sufficient. This is just what an American President gets from the power of the Senate. He can reply to one who presses on him an unworthy candidate for office, that he fears the Senate will refuse to confirm; which would damage the candidate as well as the President. A check which operates thus to *prevent* the appointment of men ostensibly or glaringly unfit, must be a great and welcome relief to the bestower of patronage, and is probably ten times as effective as any imaginable power of calling afterwards for redress and punishment. Nothing can be more lugubrious in impotency, than such "commissions of inquiry" as our Parliament from time to time issues. Such was that concerning the Crimean disasters. We do but shut the stable door, after the steed is stolen; and rarely indeed is either any one punished, or the chief offender made prominent. Parliament has not yet learned even that control ought to be preventive.

The cause of their blindness and helplessness is very clear; it is because they look to ministers to invent the organization which is to bridle ministers. In the same spirit the members say, that it is utterly impossible for the House to legislate on important questions except by the leading of ministers; a statement which is true enough as long as each of the two great parties can cohere under party discipline, and each is resolved *not to allow* private members to assume the initiative of great questions. Both parties are likely to keep up this regimen so long as they can; and so long, the House does not control the administration, or guide the legislation; but (to use a phrase of Lord Palmerston's) it merely determines *who* shall guide the destinies of the country, or, more accurately, it determines which of the two parties shall have the guidance.

So far we have been showing that the House of Commons, which has absolute power to annihilate a ministry, is very feeble to control domestic or Indian administration or foreign policy, and very helpless to guide legislation. If we were willing to do as is done in the United States, totally exclude ministers from the House, sharply separate the executive from the legislative, insist that the executive shall confine itself to the task which is already enough and too much, that of simply administering; then

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the Commons would of necessity trust to their own energies, and would find to their surprise that under Queen Victoria, equally as under Charles I., they can act without ministerial guidance. Yet, even so, threats of resignation would make it hard for this House to *control* the administration effectively; and to advise such a change is absurd, when it can only be carried by a ministry, and no ministry is likely to entertain the thought. Lord Macaulay indeed extolled our confusion of legislative and executive functions as a glorious invention; and, we suppose, a century must pass, or frightful calamity occur, before English opinion will reverse his judgment. We therefore turn to the Upper House, and ask, whether under any admissible modifications it may fulfil the functions in which the Commons House is deficient.

We have already observed that the House of Lords, by its veto on all legislative acts except money bills, does actually exert a powerful though unseen control over a very large part of the administration. Evidently it would be greater still if the Lords had the same high duties as the American Senate, of confirming appointments to office, and of regulating foreign policy; still more, if the final decision concerning all Indian questions fell to the Lords. *Supposing the Upper House to have the moral and intellectual qualities requisite for such duties*, who can doubt that it would be very desirable to impose such duties upon it? Let the reader kindly permit us to assume that the House collectively *may* or *might* have such qualities, which many peers individually beyond question do eminently possess. Not to grant to us for a moment such assumption, is equivalent to saying that an Upper House is "a delusion, a mockery, and a snare," is a nuisance which ought to be swept away. We do not anticipate such to be the probable judgment of our readers, and therefore we venture to follow up the argument, What new advantages might under our hypothesis be reaped from the House of Lords?

That House, not having to make and unmake Cabinets, saves all the time which is spent on party struggles in the Lower House. If it sat only half the time that the Lower House sits, and three hundred peers, as able as peers ought to be, really assembled, it would have time and energy for an immensity of business. Nearly all that domestic legislation *which is in no immediate relation to executive necessities*, might proceed from the Lords, and come from them to the Commons in so well prepared and almost perfect a state, as to need but little time from the

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Lower House; in which case, good measures would seldomer than now be delayed by the preoccupation of Parliament. The time of the Lower House would be economized; so would the time of ministers; and all would do their work better. Things might so come round, that the Commons would have for their chief business bills connected with immediate administrative exigencies; the Lords would have the initiative of such laws as are *not* so connected; and private bills would be cast upon local legislatures, as soon as Parliament got enough spare time and spare energy to devise the necessary machinery. At present, they go on with grossly imperfect organs, and are ruinously overworked, barely because they have *not* the free time and energy needed to create the new organs wanted. Nor must we wholly omit the topic, which derives weight from the history of our Cabinets; that in time of war our domestic legislation is now paralysed. War not only preoccupies the ministry, but makes it extremely timid, lest it give advantage to domestic opponents in a single needless enterprize. Thus our institutions went to decay for near a century and a half. So much of legislation.

Next, as to foreign affairs. It is impossible now to restore the Privy Council to its *legal* efficiency, such as it really exercised under the Tudors. Deliberating in secret, under no restraint from public cognizance, it needs a severe superior, such as a sovereign who governs as well as reigns; a sovereign who will use the ministers and their opponents as a mutual control, and can at pleasure confront each counsellor by his own sworn advice. A sovereign who reigns and does not govern, cannot perform this function through her prime minister. Events have shown that the Cabinet makes a tool of the Privy Council without resistance from the Opposition. Men are not fond of having to deliver and record solemn opinions where they are not on equal terms with their habitual opponents; indeed (it seems) the Opposition expecting to fill Cabinet-posts in turn themselves, choose to aggrandize the Cabinet rather than to uphold the ancient legal position of the Privy Council. In short, the soul of modern freedom lies in publicity; and the nation is not likely to bestir itself in favour of reanimating a secret and half obsolete power. Yet the present mode of conducting Foreign Affairs by the Cabinet has been highly mischievous, and is condemned alike by the results and by all reasonable theory; while its legality is at least doubtful. Such frightfully ruinous and needless wars as the two American, and the war against the French republic; so many

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unjust wars as we have fought in Asia; rise up in judgment against Cabinet policy. By the nature of the case, *a transitory power is unfit to be entrusted with permanent interests.* We might have known perfectly beforehand, what is abundantly clear in the retrospect, that a Cabinet, which has often to struggle for existence, and is in alarm how to get through the year, cannot afford to study distant advantage. It yields to merchants who clamour for trade at the cannon's mouth, to military and civil officials greedy for promotion through conquest, or to a court full of dynastic schemes. The proper function of executive officers is, to execute a *given* foreign policy, not to invent and guide. Judicial questions here take the lead: for their decision we need a deliberative body, containing every side of the State, every faction and every interest; and if the House of Commons were independent of ministers, no body could more fitly dictate our entire foreign policy, including treaties and embassies, as well as war and peace. But, inasmuch as our other inveterate principles incapacitate the Commons for taking such a lead, wisdom seems to dictate that we should look to the Upper House for it. Supposing its *personnel* to be such as alone can justify or at all guarantee the permanence of the institution, it is exactly suited to fulfil the obsolete functions of the Privy Council.

It would be highly proper to make every peer take the Privy Councillor's pledge of secrecy concerning ministerial documents. After this, every peer might have the right to read every despatch of the Foreign Office and every reply received, just as does the American Senate. The Peers might, in place of the Privy Council, declare war and peace, and have the exclusive right of advising the Queen to make treaties. Then no war and no treaty would be able to steal on us unawares, but the entire nation would act together, and with such steadiness as to command confidence and respect with the foreigner.

Not less urgent is the importance of our Upper House becoming a real supreme judicial court, for maintaining the rights of the princes of India, and an authoritative expounder of the treaties which have passed between us and them. *Without such a court they cannot be safe;*—Lord Dalhousie's annexations warned them that each in turn was to be devoured, and the recent escape of Mysore (if indeed it be yet a real escape) forbids them to feel assurance that the Queen's proclamation was anything but soft words made for the moment of our danger. It is impossible that they can be really loyal to the British crown, while they are

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without legal protection against a secretary whose pen can dethrone them; and until they are loyal, *we* have no security; we pay the penalty in thousands of soldiers' lives every year sacrificed to the climate. We are wasting with an ulcer which incapacitates us in Europe, and must doom us at length to be driven ignominiously out of India, unless it be cured; that is, unless we win the free and honourable allegiance of both princes and people. The first step to this is, to give them a judicial court that can decide between the princes and our executive. We know none so proper as the House of Lords. And out of this would arise a much greater activity of that House as to *all* Indian questions, and much greater weight of authority. This also is extremely needed: for it is manifest that the Commons feel themselves but half competent even for Irish questions, and resolutely refuse to judge those of India. On the other hand, every Indian Board or Council, whatever it may be called, is either dependent on the Ministry, or is utterly deficient in weight to resist their decisions. Until India can have its own Parliament, it needs to find in England such protection as only our Upper House can give it.

But now (it may be asked) of what are we talking? Do we forget that the vast majority of the English peers have no taste for public duty, and that out of more than four hundred it is a fair house if thirty attend? Do we forget that the absent peers habitually degrade the Upper House from being a deliberative body into (what we above called) a *voting-machine*, by sending their proxies as votes when they have not heard the debates? Such facts are highly discouraging. They are triumphant arguments to those who hope to see the Upper House reduced to impotency or swept away. But we will add,—to those who would rather preserve than destroy, to those who know how hard it is to invent *de novo* a vital organ, except in the midst of a destructive general overturn,—these sad facts are an overpowering reason for grappling with the question of Reform of the Lords, before it is too late. This House is still powerful; it may do us much good, or much harm. If allowed to decay, it afflicts us meanwhile with stagnation or half-measures, and undermines attachment to the Constitution. To those who fancy that this House at present is simply effete and harmless, *not* a real power, we point to the history of the second Reformed Parliament.

During the first Reformed Parliament the Lords were prostrate; were probably panic-struck, and did not move against the Minis-

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try. In the second Parliament everything changed. The East India Company put its veto on the Ministry as to a vital principle of administration, and the Ministry was afraid to resent it. The Lords saw their time, and vetoed Lord Morpeth's Irish Church Bill. The Ministry submitted to that also. Thereupon the Lords took courage to obstruct systematically, and Lord Lyndhurst in successive sessions summed up the bills which the Ministry had been unable to carry, taunted them with their impotence against the Lords, and bitterly insulted the Irish nation in order to aggravate the difficulties of the Whigs in power. The Whigs have *never* faltered in their belief that it was right and necessary to reform the Irish Church: yet for thirty years that have since passed they made no new attempt. Dread of the House of Lords has ever since held their hands. Are not then the Lords a real power in the empire? and is it not important to have that power act as a joint worker, not as an obstruction and a paralysis?

To forbid all voting by proxy is evidently the first necessary thing. It is a high and great function to legislate for such an empire; and to vote without hearing deliberation is little else than contempt of fellow legislators and proud wilfulness. Again; no peer can soberly think that he is allowed such a function for his personal satisfaction, and that it rests with his caprice to fulfil it or neglect it. One who is habitually absent, really abdicates his function, like a king who leaves his country, or a magistrate who is never at his post. It would be a very safe measure, to pronounce that those peers who in any year were absent (say) nine hours out of ten, showed either disinclination or unfitness for the duty. If ill health was the cause, and the ill health was not transitory, it remains a good reason for relieving such peer of his functions.

At the same time, everything points to the wisdom of Lord Palmerston's move for the creation of *life* peers. Practically, in order to have in the House legal men competent to hear appeals, there is a constant effort after life peers; for it is notorious that those lawyers are preferred who are childless and likely to be childless. But a still more important point is, that the men who are to be our glory or our shame in the Upper House, should not be appointed because they are rich and have spent money in the cause of a party, nor because it will bring some indirect transitory convenience to a minister; but because they are such as will be a strength to their country, and such as the country will love to

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honour. This will be attained, so far as any regulations can secure it, if a minister, before recommending any person to her Majesty for a peerage, be bound to ask of the Commons a vote in his favour, declaring that *by reason of his public merit* he is fit to become a legislator in the Upper House. The high honour would be coveted by all the foremost minds. The sons of peers would wish to be thus promoted in their father's lifetime. If those peers who have abdicated their duties were forbidden to vote by proxy, a large number of life peers would be visibly needed to fill the House reasonably; and alike by numbers and by talents they would take the real effective lead. Thus, with honour to the Upper House and without convulsion, it might be so re-generated, that there could be no impropriety, nor any public timidity, in calling it to new activities and nobler tasks, for the benefit of the empire, and with very conservative results for the upper classes and the throne.

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MARRIAGE LAWS.

From "Fraser's Magazine," August 1867.

MANY reasons concur, making it not expedient only but highly important, that the topic of marriage should be treated fundamentally before popular audiences and in popular books. The teachers of religion, by dealing with it only dogmatically, briefly, and allusively, throw away the vast influence, which, if wisely informed, they might beneficially exercise: and already it is manifest that with a formidable fraction of society they have lost all moral authority. Nor only so: but parents seldom feel themselves strong enough in knowledge to converse freely with their children and give them *reasons* for established restrictions. Young persons pick up opinions on the whole question rather from their companions and friends whose age is slightly in advance of their own, than from their parents or from any maturer and more fully furnished minds. That libertinism of the most demoralizing character flourishes in London, in Paris, and in New York, cannot be a secret; nor that it is confined to no grade of society. But alas, the chief cities do but impress the imagination more, by the scale of the evil: how much it is really less in smaller assemblages of mankind, is hard to say. One thing only is clear; that the theoretic morality both of the law of the land and of the Christian religion is systematically set at nought by masses of men too numerous to punish and too intelligent to despise; to whom no public argument is addressed; whom no pulpit denunciations affect or reach. And, what makes the evil more untractable, at the back of the offenders lies, as a force in reserve, a theory which they often imagine to justify them; a theory upheld by earnest persons of both sexes, hitherto wholly guiltless of transgression against the received moralities. Concerning opinion in France, Italy, and Germany, we shall not attempt to speak. It concerns us more, that among people who talk English and have Protestant Christianity for the basis of their moral culture, on both sides of the Atlantic, a theory has arisen concerning "free love," which,

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however variously applied, in every case would supersede marriage. Meanwhile polygamy has burst out, not among the Mormons only, but among the ruder Americans who are in contact with polygamic Indians; and still more preposterous customs are in some sects practised in the name of religion. Evidently it is on American soil that the battle of old and new morality will most actively be fought; but in the time of transition the most sacred virtues are not safe here, unless the whole question is opened to discussion and everything overstrained or unjust in existing institutions be removed. For undoubtedly nothing so insures a violent and pernicious overthrow, as the pertinacious maintenance of error, and the consecration of injustice.

It may be a dozen years since a young couple were married in the United States, who forthwith put into all the papers a protest against the tyranny of marriage. (We respect them too much to give the name here; we see it often foremost in philanthropic and virtuous work.) In the advertisement the husband disowned his right to expect "obedience" from his wife; and they jointly declared, that marriage was a thing between themselves and God, with which society and the law had nothing whatever to do. Such is the fundamental idea of "free love;" which with some will be matrimonial faithfulness, and with others wild caprice. It assumes that marriage, like friendship, is an affair essentially private, with which it is impertinent and offensive for the State or social opinion to interfere. The assumption is either a truth or a falsehood: until its falsehood is proved, we cannot take the first step in argument beyond; and when such a view is upheld in simple sincerity, by persons who have persuaded themselves that it would deliver us from the prevalent deplorable unchastity, they certainly have a right to expect a frank acceptance of their challenge. We trust that our readers need not fear in this article anything that can justly offend their taste. The most critical of the topics which we need to treat, are such as ought to be deliberately sifted by every prudent maiden.

While two persons live together as married, but without children, nothing appears of which the State must necessarily take cognizance. But unless such a condition of things were exceptional, human society would soon die out; and law must of course be framed on the assumption that offspring will be the result of unions. The instant that children are born, a duty of protection falls upon the State. Our morality has long ago passed

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beyond the barbaric principle that children belong to the parents only and not to the community also. No one now claims that the parent shall be free to expose them to wild beasts, or starve them by cold or famine. Thus the State at once appears as a guardian in the background, ready to act, if necessary. We may add, this function of the State (which none will now deny) instantly opens a new topic; the right to treat as an offence any premeditated destruction of infant life *about to be*. Whether it be expedient to exercise such a right, is quite another question. But the very mention of the claim suffices to show, how delicate and difficult is the argument which would here draw the line between private independence and public interference. But that is not all, nor what is here most to the point. The State is further called to make up its mind, what are the respective rights of the two parents over the children, since it may happen and does happen that they quarrel on the matter. Who is the mother of a child, is generally a notorious and unquestioned fact: if it be quite unknown who is the father, the law has no choice but to acknowledge in the mother exclusively all the rights which parents ought to possess over children. Now if to do this in all cases were right, everything would apparently be simplified. The State might then pass the father by altogether, and ask no questions about marriage-vows or their permanence, about faithfulness or unfaithfulness. It might act as if the mother were the sole parent, and no absolute necessity would appear for legislation concerning marriages. In some parts of the world there probably have been communities, in which this practice was established; issuing in the doctrine that the mother was the head of the family, however public and solemn the marriage tie. It is not uninstructive to consider the conditions under which alone that course of legislation can become plausible.

Some thirty years ago the American missionaries in one of the tropical Pacific islands were much distressed how to deal with one of its native marriage customs. It was an established principle with young women to take a husband *on probation* for a year. If in the course of that period he was found to be a desirable partner, the woman kept him for a permanence; but if ill temper and other evil qualities, which had been suppressed during courtship, showed themselves, she discarded him. To be left with an infant on her hands was to her no hardship at all. The exuberance of nature supplied nutriment on terms so easy, that to feed a family involved no anxiety and no painful effort. The scantiest

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clothing sufficed, and for children was perhaps thought superfluous: of course all such cares as education, and as the putting forward of children into professions or trades, were unheard of. In this state of things the young women, who had been received under Christian instruction, much resented the injunction of the missionaries that they would all at once tie themselves for life to an unproved husband; and felt the demand to be a hardship and injustice. They urged that while a man is a mere suitor, he is not in his normal state (if we may translate their simple words by our philosophic phrase), and it was very hard for a young woman who at all responded to his suit, to judge of him; but after his first hot passion had consumed itself, his true character came out, and she found whether she was likely to be happy with him. Why should she not get rid of him, if he showed himself to be a tyrant or a log? And was it not better for men themselves to learn, that if they wished to keep a wife, they must deserve to have a wife?—We think it impossible for any one to fail to see, that such arguments come from those who profoundly believe marriage to be a moral relation, and in so far take a nobler view of it than do many Europeans, who (as we once heard a German professor avow) suppose it to be merely a legal mode of indulging sensual appetite. No one can confound the reasonings of these Pacific islanders with the sophistries of libertines. The woman speaks as one, who makes a generous gift to a man, and claims to fix by prudential considerations the limits of her own generosity; who receives nothing in return but his love, and feels it hard indeed, if she is to be cheated of that, and to become his slave, merely because she has been affectionate. We may reply, that her reasonings overlook some of the elements of the question; and so they do, in our very different circumstances and different needs. But her arguments are good, as far as they go; and even in our English world they are rather outweighed by other considerations, than open to any refutation in themselves.

We think it thus appears, that if mankind lived in the islands of the blessed; if life were not a struggle; if the providing for children had no anxieties; if men in marrying undertook no grave responsibilities; if women in marrying gave everything, and undertook certainly some labour in prospect,—that of childbearing and childrearing;—then it would not be at all unreasonable in the State to decide concerning all children what they everywhere of necessity decide concerning those whose father is

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unknown; that is, to pronounce that the children belong to the mother alone: on which follows a total ignoring of the father. The question would then certainly be open, whether the State should trouble itself at all with questions of marriage. But to follow out such argument is useless; for this condition of physical ease is precisely that, under which the higher qualities of man are not called out. It is a condition possible only under very exceptional regions of the earth, and there only for a while. Being on the one hand exceptional, and on the other inconsistent with the attainment of those virtues which spring out of steady industry and severe training, it cannot give us a measure for the normal morality of mankind. Peculiarly in England and in Northern Europe is the contrast to that state of things immense. Our women, even when unmarried, earn a livelihood only by constant labour, often ill remunerated. Suffering in childbirth is generally severe, always weakening, and the support of a husband is gravely needed. To feed a family without his toil, is always an unfair, generally a cruel, infliction on the mother: and the higher they are in society, the greater is the expense of education, and the greater the efforts needed to start children advantageously in life. No one can expect a father to undergo the necessary toils and endless sacrifices thus imposed, and yet claim no rights over the children: and no mothers, no women in prospect of marriage, would be so unreasonable as to demand the exclusive right. It is upon this that the interference of the State in marriages primarily becomes inevitable.

In fact, this public sanction of marriage has always been recognised, in the survey of the past, as the first step in the passage out of barbarism into civilisation; but reserving the topics therein implied, let us first dwell on the points which enforce the interference of the State. Suppose that to happen which does happen,—that two parents quarrel concerning the education and control of children; or, what comes to the same thing, suppose one or other parent to be dead, and the guardian who represents the deceased to quarrel with the surviving parent. If the persons at variance go so far as to use violence, one or other carrying off the children by force, the State cannot be neutral without sanctioning anarchy; without virtually saying, "Fight it out; and let the conqueror keep his prize." If appealed to, the State is bound to decide between them. It may either say: "The mother, and the mother only has rights over the children" (and we have already seen how grave are the objections to this); or it may say

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(as English law says): "The mother has absolutely no right as against the father;" or it may attempt some compromise. But if men expect to have any rights as fathers guaranteed to them by the State, they must publicly register their position as husbands, and take on themselves fathers' duties by some formal official act; and this is virtually a marriage. Experience has taught the State, that to secure the validity of wills, it is highly important to insist on certain small and easy formalities, especially as regards two witnesses; and to furnish formal words to express accurately what it is that the witnesses attest. Experience also long ago taught the necessity of formal words to constitute a marriage,—or a divorce, in nations which have allowed freedom of divorce. The framing of formal words, with such other precautions as are needed to insure publicity and avoid fraud, is neither more nor less than the passing of a marriage law by the State. If any persons are willing to go the whole length of sacrificing and denying a father's rights and a father's duties, and throwing all upon the mother; then they can, without being illogical, deny to the State all interference in marriages. Short of this extreme (which in Europe no one could advocate without irrational fanaticism, and not one man or one woman in fifty thousand would approve), it becomes inevitable for the State to desire to know by public register what man each woman looks upon as father of her children, present or prospective, and what woman's children each man avows and claims as his own: since without such register there is no guarantee of publicity, and a tedious inconvenient expensive legal inquiry may on each occasion be needful to ascertain who is the legally responsible father of certain children. Such inquiries do happen now, when a child is born out of wedlock, and the mother cannot support it: but they are on many accounts very undesirable.

It is one thing to maintain (as we do) that every union of man and woman should be a public fact, registered under conditions approved by the State; and it is quite another assertion (which we do not make) that the law of marriage in any particular State is what it ought to be. Many (as it seems to us) on discerning justice in the public law, have leapt to the conclusion that it is better to discard the State entirely. We might judge differently of this conduct, according to the exigency of the case; but we should in no case be able to censure as immoral those who so acted, if, like the old Quakers, they anxiously gave publicity to their unions, and left nothing obscure as to their morally binding

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nature. The first Quakers frankly and formally defied the law. They would not go to church to be married, but the kinsfolk and friends of bride and bridegroom assembled, all of whom were at once moral and legal witnesses of the transaction; suitable papers were drawn out, register was (we presume) made in the family Bibles, and the moral relation of the parties was thus as sharply determined as by any legal marriage. The nation in general regarded those early Quakers as fanatics, but we have never read a word that can suggest that any one looked on their marriages as an immoral and impure state of life, or for a moment confounded it with libertinism. Nor do we believe that (even without the intervention of a religious sect) if any man and woman who have overstepped the Christian pale were to call their friends together, and say that they solemnly purpose to live in permanent and faithful conjugal union, but because of some injustice which they feel in the public law, they cannot submit to the legal form of marriage; nevertheless, they call their friends to witness that they take on themselves all rightful responsibilities both towards one another and towards any children whom they may hereafter have; if, we say, they displayed a formal document, and asked witnesses to subscribe it; and after this advertised the transaction in the newspapers;—then, however much some or many of us might deplore their erroneous judgment, we cannot believe that any one would think the wife personally degraded, and shrink from her companionship. Nay, it may safely be predicted, that if such conduct became frequent, Parliament would soon do what it did in the parallel case of Quakers and Jews,—legalise the marriages. But it is widely different, if instead of publicity and frank rebellion, secrecy and obscurity be practised. If, after a stealthy courtship, a couple suddenly elope; if after a while they turn up as ostensibly man and wife;* then, though they may remain together faithfully, and bring up children virtuously, they may indeed at length live down their dishonour and command respect, yet it cannot be denied that they *did* dishonour themselves: for they made it extremely difficult for others to understand their position and know how to behave to them. Nay, who of us could yet tell, but that such a husband may six months hence cast off an innocent wife, because he is more attracted by some new object? Private friends who know him well, may feel sure that this is morally impossible: but if he has

* This glances at Mr G. H. Lewes and Miss Evans [George Eliot].—1889.

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done no public act which avows his relationship and confesses his responsibility, he gives to the public no means to distinguish him from a libertine, and refuses to the mother of his children her rightful public recognition. Who can tell that her relation to him is fundamentally different from that of an opera-dancer to a friend whose protection lasts for the season? Externally and formally the union is as fragile in the one case as in the other: not so, if a man (though, through some conscientious or urgent motive, rejecting strict legality) pledge his honour publicly before those whose esteem he most desires. We press this matter earnestly; because we think that the public is often assailed as *bigoted* and *prudish*, where it is not. The matrons of England, equally with statesmen, keenly resent underhand, obscure, clandestine relations between the sexes; but know thoroughly how to respect honest frankness, even when in its defiance of law it may seem to them somewhat fanatical. But if women are to receive justice, or any portion of it, and if children are to be cared for, we must be severe against clandestine unions.

Persons warmly philanthropic, looking with grief and indignation at the state of despised women, who seem to become in Christendom more wretched, more abandoned, more hopeless of recovery than anywhere else,—sometimes sincerely attribute all the evil to the severity with which female unchastity is abhorred. We have heard an excellent man declare, that the throne of chastity with us is erected on a flooring of human skulls as truly as the throne of Dahomey. Such good people sincerely believe, what many novelists enforce, that English women who are conventionally called virtuous are guilty of much sanctimonious pride and hardness of heart; moreover, that the girls who fall into evil courses are in large proportion recoverable, if only we were willing to accept them on the same footing as their unblamable sisters. Although it is a digression, yet it may be not unimportant in this stage of the argument to protest that the true state of the case is here fundamentally mistaken. In every class there are some hard-hearted persons, and more who from ignorance or thoughtlessness act as if they were hard-hearted. But it is not from pedantry, in women called virtuous, that our terrible difficulties arise. It is, from the enormous chasm which divides a life of profligate idleness from the continuous toil of a servant or shop-attendant, who is scarcely allowed a will of her own for any half-hour of the day. A girl who has once learnt the fatal secret, how easily she may earn fine dresses, food, and indolence,

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will seldom again endure that incessant industry and self-denial, without which women cannot earn wages in England. The prevalent indolence and want of skill in such girls, and their still more unendurable propensity to talk over to other servants the profligate adventures of which they represent themselves the injured heroines, are the real impediments to their re-employment. A mistress who tries to bring them into her family or establishment, is apt to discover that she must take *all* her servants from that same class; as the others cannot endure their fellowship and perpetual company, even if (what is probably the exception) they show themselves skilful and industrious. We may add, that the reason why unchastity in women is more severely reproved than in men, is, because a woman can earn money by it, the man does but spend on it; hence with the former it is a means and mode of life, a fixed and self-propagating evil; with the latter it is self-destructive. To wink at the libertinism of men is bad enough, no doubt; but to establish as not utterly disreputable to women *that* vice which is a trade,—would involve a total subversion of every form of morality. Scoundrelism in money and in politics is sure to go hand in hand with licentiousness, as in the old Paganisms. Nay, Sir James Mackintosh has written, that an age of cruelty follows straight upon an age of licentiousness.

For all these reasons, and not from any straining after power, or intrusive folly, every government moderately enlightened *must* desire, however liberal, to establish firm marriage laws. In passing the bill called the Dissenters' Marriage Act, there can be no question that our Parliament intended to show the widest liberality, and to cut away all reason or pretence for aversion to the legal ceremony on the part of those whose intentions were mutually honourable. Registration is in reality the essence of the marriage: it is not even in form a religious ceremony. Religious persons may superadd their own ceremony, and it does not vitiate the legal act; while Pagans or Atheists can equally obtain the legal sanction. But the legislators did not understand that, on the one hand, from the excessive power which English law gives to a husband, and on the other hand, from our very severe limitations of divorce, persons might be found to rebel not against the *ceremony*, but against the *state* of English marriage as in itself full of injustice: and unquestionably there is here still a formidable controversy to be met.

The difficulty has come up, with ludicrous frankness, among

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the simple-minded negroes recently set free in the Southern States of the American Union. During slavery their marriages were not legal. The masters did not choose to debar themselves from the right of separating couples at pleasure: nor, with their theory that "slaves were chattels," on a par with "asses or nutmegs," was it possible for them to endure the idea that a male slave had any *rights* in a woman slave, or either parent in the children. But since freedom has been proclaimed, the school teachers from the North have taken pains to induce the freed men and women to consecrate their unions by a legal marriage. No resistance was made at first; perhaps they were proud of the ceremony as a new distinction. But now that the women have learned what rights are hereby given to the men, they are increasingly unwilling to marry; and (what takes Englishmen aback) it is the men who are eager to make their unions legal. Both sexes urge the same fact, but with opposite purpose. The man says: "Do make Chloe marry me; because she won't obey me else." The woman pleads: "I won't marry Sambo, for he will then be able to take my wages from me and bid me make him my massa; and if he beats me, I shall not be able to go away from him; and he will be able to keep my children from me; and if he becomes a drunkard, like Joe, I shall not be able to get rid of him. I don't want a massa at all; I only want a husband." It will be observed, that to a certain extent these women are situated like those above spoken of in tropical islands; that is to say, the women trust their ability to feed themselves and their children by their own work, and regard the power which English law gives to a husband as excessive and tyrannical. At a public meeting of the American Anti-Slavery Society last year, several well-known philanthropic ladies distinctly took the side of the negro women, declaring that the marriage law must be altered, the husband must be equalized with the wife, or the submission of the woman to legal marriage could not be expected. In fact, this topic has an importance far beyond what at first appears; for it is at the bottom of the formidable movement towards "free love," which (if we may believe report) gains strength in the United States with educated females, far beyond the limits of the few sects which openly profess it. In England we have no superfluity of rich and lovely land, no facility of physical independence, no aptitude for religious fanaticism (at least in the classes likely to defy public opinion): hence no one is likely to found on this soil religious communities, with marriage customs

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scandalous to their neighbours. But if among English Americans who live in faithful union it should become a reputable practice, *on the ground of rightful and necessary freedom*, to disuse every ceremony which can legalize marriage; that is a principle which is sure to be contagious in England with those classes which most sympathize with freedom and with young America; and if once the mass of our artizans, who have already broken with Christianity, break with the principle of legal marriage, State and Church will labour in vain to recover them. A theory will become fact, which obliterates the visible lines of right and wrong, and so confounds the pure and enthusiastic with the selfish sensualist or mercenary jilt, as to threaten very grave results.

The history of marriage among the ancient Romans instructively lays out before us, in cause and effect, the course into which we of the Anglo-Saxon races have entered; and if we do not mistake, gives instruction highly profitable, at once to the conservative intellect which dreads to break down the old legal dogmas, and to the fervent radicalism which believes freedom to be the mother of purity. The Roman (apparently the Sabine) law allowed to the husband and father still greater powers than does the English law; so great, that at an early period the plebeians, who were chiefly Latin, refused to give their daughters into legitimate marriage. Marriage was *inferred* by Roman law, even without any marriage ceremony, from the mere fact of a woman living with a man for a full year as ostensibly his wife. But (as we read) expressly in order to evade this inference, the noble Roman wife used systematically to leave her husband's house for three days in the year. Thus she never came "into the hand of her husband," as the Latins phrased it. Only a few patrician families retained the old form of sacred marriage, without which their children were not eligible to hold certain patrician pontificates. Evidently in law nearly the whole nation were bastards; which of course involved no disgrace, when it was all but universal: nor did any one, till nearly the end of the republic, imagine how suddenly the floodgates of licentiousness would be opened. It is a satisfaction to know that for several centuries very little mischief arose from so universal a defiance of law. The marvel is, that the people should not have changed the law, when it was so universally judged to be bad and intolerable. We must suppose, that the Romans, like the English, asked only, whether the system "worked well;" and finding no inconvenience

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from the systematic evasion of law, were contented to leave things alone. Moreover it must never be forgotten, that there was *nothing clandestine* in their marriages, but they were entered into with the heartiest interest by the families on each side. Formal marriage contracts with arrangements of dowry were made out. The husband had the use of his wife's money, but never became possessor of it. A wife not without private fortune and protected by her whole clan (for the families were organized into clans) had a better moral position than our law gives her; for, in case of gross misconduct on his part, she could leave him at once. It is true, she then left her children in his power; but so she does with us: and this is often the overwhelming cause, for which a mother submits to a life of misery from a bad husband. The Roman law also gave a weight to the tribunals of kinsfolk, to which we are total strangers. Therefore on the whole their illegal marriages have a rough likeness to the marriages of the early Quakers. Nevertheless, Gibbon (certainly no bigot) in a few emphatic words, tells the results of this freedom, in the later development of things (ch. 44):

> When the Roman matrons became the equal and voluntary companions of their lords, a new jurisprudence (?) was introduced—that marriage, like other partnerships, might be dissolved by the abdication of one of the associates. In three centuries of prosperity and corruption, this principle was enlarged to frequent practice and pernicious abuse. Passion, interest, or caprice suggested daily motives for the dissolution of marriage. A word, a sign, a message, a letter, the mandate of a freedman, declared the separation. The most tender of human connections was degraded to a transient society of profit or pleasure. According to the various conditions of life, both sexes felt the disgrace and injury. . . . *A specious theory is confuted by this free and perfect experiment, which demonstrates that the liberty of divorce does not contribute to happiness and virtue.*

It is a favourite notion with some fervent spirits, that the world is very young, our experience very small, our dogmatic morality premature and therefore preposterous; and that a large freedom of new "experiments" in marriage, or no marriage, is a prerequisite to any healthy and stable condition. Thus, in our present stage (it seems), the highest morality consists, in society declining to censure individuals, and repenting of its conceit and bigotry. Let it be recognized, that in all relations between the sexes, each man and woman is justified by *good intentions;* and, as long as they *think* they are doing right, let no one censure

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them. (We are not quoting any one writer, but the substance of what we hear urged, in comments upon certain writers.) The truth, herein mixed with the error, makes it plausible. Most true is it, that the world is young and in a vast number of departments is inexperienced; but equally true is it, that in domestic and popular morality the world is old; and its earliest wisdom is still by far the most valuable. Peculiarly in the cardinal matter on which all human communities depend for existence,—the family relation,—we have an abundant stock of experience: yet even here we admit, and maintain, that through the lamentable obstinacy of conservatism,—which has either refused all change or perhaps strained the bow till it broke,—we have far *less* ample experience than we ought to have. If the laws of marriage (in which we include the law of divorce and the rights of husbands and fathers) are too severe, a time comes at which submission is flatly refused. Enforcement of the law against deliberate and (let us say) fanatical offenders is impossible, if profligate offenders go unpunished; and, unhappily, profligacy has never ceased to stain many of the kinsfolk of nobles and legislators. Thus profligates and pure-minded rebels are in effect a mutual defence, and the law becomes helpless. A great majority among us, from habit, from political conservatism, or from religious belief, are averse to any tampering (as they call it) with the laws of marriage: but the aspect of the world and the course of events give warning of a great break-down, perhaps with consequences peculiarly disastrous in our present career, if changes are not made of a grave and decisive kind, yet such as to uphold all the main principles on which the sanctity of marriage depends.

Peculiarly disastrous, we say, in our present career. These words may first require to be explained. The English race has become pre-eminently *migratory*. Our enterprize, which has traversed the seas and planted colonies; our active internal trade and constant migration ever increasing, separate even the members of one family, and that in early life; much more does it totally break up the moral influence of cousins and clanship and neighbourhood. This is no place to discuss worthily, *why* it was that the illegal marriages of the Latin race turned out so full of immorality, after having been harmless for several centuries. As partial causes, we must certainly count, 1. the demoralization from civil war; 2. the packing of the Senate by Sulla with political partizans, unscrupulous men, often sanguinary, avaricious, and profligate; 3. as a necessary concomitant, his overthrow of the

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censor's power, which never again became vigorous under the republic. But the enormous destruction of the aristocratic families (which did not become complete until the defeat of Brutus and Cassius), was perhaps the finally decisive blow; this broke up both the organization of clans and the family influences which had protected the sanctity of marriage with all the upper classes. Under Augustus, we know that among the remaining nobility the unwillingness to have children—when they could not inherit the freedom into which the father had been born—was too stubborn for the emperor to overcome. We ought rather to look below the nobility, to see the causes really at work. The newly risen men, those enriched by trade, by jobberies, by spoil, by office, by farming the taxes or other state possessions,—came from many parts, and were seldom in any relation to old families, much less clans, of powerful social influence. When the few aristocracy prevalently disdained marriage, and their example was much rather bad than good to the commonalty, the marriages of this commonalty had no longer any support at all; resting neither on law nor on family opinion. They became really affairs between the two persons alone. If a Bruttian or an Etruscan, who had made a fortune in Rome as a builder or merchant, chose to take a wife to-day, and divorce her next month from some whim; what was there to restrain him, or make him ashamed? The law could not touch him, if he had not detained her money: her kinsfolk he could afford to despise: the new aristocracy and officials would not refuse him business on any such ground; and as for his own kinsfolk,—perhaps he did not count on ever seeing them again. In this migratory state of population the influences of *collateral families* is all but annihilated; and therefore it is, that the loss of legal sanction to marriage becomes more than ever felt. Such perhaps was the main immediate cause of that demoralization which has made imperial Rome detestable even to memory beyond anything which modern Christendom has yet displayed. Yet are we not ourselves, if not on the verge, yet within sight, of the same frightful abyss? It is not necessary to speak of Paris, the most fascinating city in Europe, and to ask, what moral influence can thence be diffused to sanctify the union of man and woman. It suffices to cast the eye on London, and on the English peerage; to reflect on notorious facts, which assure us, that of our "upper ten thousand" too many are implicated in Parisian licentiousness, to allow any vigorous legislation against it. Forsooth, their "free love" from the very first deliberately intends to abandon

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the loved object, as an inconvenience and an obstacle to ambition. No effective moral restraint can come from the example and social influence of an aristocracy, which without a struggle has allowed such a system to grow up for the convenience of its younger kinsfolk. Nor can social restraint on selfish libertinism come from collateral family influence, where the members of families scatter and migrate, as with us. What then is to happen, if law be totally renounced even by the virtuous? Can it be reasonably and soberly thought, that practical licentiousness will not immensely increase when even *they* set aside all restraint of law? It avails not to reply, that "human nature will make a few blunders, and come right *at last*." That topic was as true, as valuable, and as much to the purpose, in the reigns of Augustus and Nero, as now; but it did not suffice to work off the impurities of Rome. The urgent doubt is, through how many blunders, through how much misery, through how much degradation and ruin, will men have to pass, before the time called "*at last*" comes. In Rome, it came only by foreign conquest, and by a total break-up of society. Those who thus reason about "freedom," shut their eyes to the moral influences and moral duties of the State; perhaps, dogmatically deny its moral duties, and here are diametrically at variance both with the theory and with the practice alike of every known civilized State and of every English Parliament. Suppose for a moment that this theory of freedom were acted on, even without the very mischievous addition of *secrecy*; and that (the law remaining as it is) persons of the highest virtue declined to legalize their marriages: what must be expected to follow? It is worth while to trace the inevitable consequences.

When persons of high goodness and purity live in conjugal union illegally, but faithfully, and display practically that they are a law to themselves, and need no restraint of law; moral honour is given to this state of freedom. Numbers beside enter it, with less noble principles and lower self-control. Those who took up the new position with something of the martyr spirit, knew that they were a mark for aspersion, and had some aid in the high-strung tone which conscious self-sacrifice gives to the defiant enthusiast. Those who follow, when the public odium is past, have no such secondary bracing: and the majority of men have not hitherto risen above law, but prevalently interpret duty from law. It is notorious, that the mercantile class do not feel against various swindlings, nor the political class against briberies and other malpractices, any grave and consistent reprobation,

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until the law stigmatizes them as *criminal*; and if we look but a little way back and ask, what our fathers thought of the slave trade, and of lotteries, we shall see, how valuable is the aid of law to sustain national sentiment. So soon as marriage is free from legal control, divorce becomes possible at the will of either party; and if once illegal unions become prevalent and thereby respectable, numberless cases will soon occur, in a migratory nation, in which no family influence can act against arbitrary divorce. With a great majority of the married, even those who have no high principles, divorce will not be desired. Fondness for the common offspring, mere habituation, the inconvenience of losing a wife's portion, the difficulty of a new courtship, the chance of being rejected in it if the divorce have seemed arbitrary;—will keep most couples together. But if only one of a thousand married homes were broken up every year by a causeless and unjustifiable divorce, it would be a formidable addition to all our moral difficulties. And in two or three generations the progress would be downhill: for the facility of divorce would lead to greater facility of experimental marriage. As old Simo in Terence represents,—there can be no great harm if a young man, where it seems convenient, marry a lady whom he does not love:

> Nempe incommoditas denique huc omnis redit,—
> Si eveniat (quod Dî prohibeant !) *discessio.*

That is: "You need not be afraid to take her. If you find you do not like her, you will *only* have to give her up." Parents never make bad marriages for their children now on such a computation: it would be a pure addition to existing evil. And the hundred divorces of this year might become a thousand five years hence, because the stigma upon a wanton use of the power would be weakened perpetually by the frequency of use.

But consider more closely, what the power of arbitrary divorce, unchecked even by the opinion of kinsfolk, means. It means, that a man shall be able to get rid of one woman, because he is more attracted by another. Now this temptation is the more subtle and dangerous, expressly because it is not necessarily or principally addressed to the sensual part of our nature. Especially if a man marry when young, before his own character is fully developed, it is unlikely that the choice of his youth will be the partner whom he would have chosen in his manhood. He may have been unduly attracted by a beauty which does not last,

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or he may find his wife's mind to be incapable of moving on with his own. In the very proportion of his capacity, versatility and late expanding powers, it may become impossible for one woman to satisfy his mental desires. At present such a case is more easily borne, because a married man is able to have close and tender friendships with any number of women; in fact, the more numerous they are, the less danger there is of jealousy. This is now one of the marked privileges of marriage: it gives to a man not only one wife, but many sisters; and the mental attraction between the sexes is great and signal. The advantage would be largely lost, if he could divorce his wife at pleasure. Close friendship with other women would no longer be honourable, or free from suspicion. A wife's jealousy would almost necessarily be incurred, and unhappiness thence arise. Thus the power of arbitrary divorce would lessen the freedom of the married and the happiness of the married state. Out of such unhappiness divorces would arise; and again, the more frequent divorce, the more rife must jealousies become, and the greater the slavery of marriage. The evil, like a snowball, grows as it rolls on. Already a part of this mischief shows itself in Prussia, from the too great facility of the divorce courts. A single example will explain what things are even now possible. A married lady, mother of several children, living in entire harmony with her husband, an amiable easy gentleman, hears at church an enthusiastic young preacher, and is enraptured by his eloquence. On her return home she tells her husband, how thoroughly the preacher's words have come to her heart; and that she is quite persuaded it would conduce to her spiritual perfection to be married to him; and if she can get *his* consent, she hopes that her *husband* will not oppose a divorce. What amount of urgency sufficed to disgust the husband into agreement is not a public fact. No man can like to feel that he is keeping a wife against her will, and to be reproached with hindering her spiritual improvement. That the husband did consent, and that the court thereupon did without further inquiry sanction the divorce, *is* a public fact; also, that the preacher made no difficulty about accepting the enthusiastic lady, with her dowry and her children. We have since heard, but from one informant only, that, after many years of union, the preacher in turn sought and gained divorce from his wife, and that she is now gone back—into the bosom of her first husband!

An unlimited power of divorce necessarily draws after it the possibility of marrying with the premeditated intention of termin-

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ating the union after a limited time. This touches the point, which of all is most cardinal. The sanctity of marriage is not necessarily invaded by its not being in the result a union for life; but unless, when the union is formed, it is intended and fully expected to be a life-union, its sanctity receives a fatal wound. Not to reprobate and detest such pretended marriages, is to justify the sensualism of every libertine. Else, why may not a young student marry a girl of low birth for a few years, knowing that he will be ashamed of such a partner for a permanence; and divorce her, as soon as ambition and the hope of a better match prompts? If such conduct be not reprobated, will not the girl on her part be justified in extorting the utmost of money which she can, in order to support her possible children? And if such a mode of getting a livelihood be respectable, while it is vastly easier than the industry of maidens who refuse to sell their persons; we shall not be far off from the state of the Lydians and Etruscans, among whom every good-looking young woman, without reproach, earned a dowry for her more permanent marriage by gratifying any number of successive lovers until the requisite sum was made up. No persons of high and pure mind can ever intend not to reprobate, not to detest, not to express disgust, at "temporary unions," *intended* to be temporary from the first: but if unlimited divorce is to be permitted, and is not to be resented, we lose all right to reprove any union which covers itself by the mere word "marriage." For though we may be clearly convinced, that it is intended to be temporary, we have never a right to assert it, while the parties keep their own counsel.

Among the Persians, the principle of "temporary unions" has been organized into religion, and the ceremonial is performed by the Mohammedan priests. Merchants, who come from a distant city,—suppose to Ispahân,—often reside there for two or three months, while waiting for goods. Finding it rather tedious, they beguile the time by marrying a wife for a number of months specified in the marriage contract. The process is straightforward and business-like. The merchant calls on the priest, and tells what he wants. The priest examines his book, and finds therein registered the names of women who are willing, for a consideration, to enter into temporary marriage; and ascertains how many of them are disengaged. What further is done we do not know, but, we believe, he assembles them veiled, and lets the merchant pick out one: however, it ends with his drawing out a

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regular marriage certificate,* and pocketing his fee. An estimable Scotch military officer, who had for some years the charge of the Persian arsenal at Tabreez, under the treaty of the East India Company with the King of Persia, assured the writer of these lines that he had seen and read such marriage contracts, and could testify as eye-witness that *a single day* was not too short a duration of marriage to receive the priest's blessing and licence! Of course those who first authorized this wonderful system, had no foresight of the monstrosity into which it would run. They must have believed that they would lessen existing evil, and act *against* the loathsome system of prostitution. But when once the fatal idea is admitted that a union which is intended to last some time shorter than life is marriage at all, and deserves honourable recognition; instead of curing the evil which exists, it does but degrade and pollute the ministers of the new system.

It is upon this point that a stand must firmly be made, or we are swamped in the pool of dissoluteness. A sincere intention, a fervent desire, a full belief, that the union is to be and shall be perpetual, is essential to any true and honourable love, to any true and honourable marriage. In order to uphold marriage as a social institution, the power of divorce must not rest with the parties themselves, but with some judge, or some court (perhaps of kinsfolk) presided over by a public officer; and rightly to prescribe beforehand the grounds and conditions of divorce, is a critical duty for the legislator. In the opening of this discussion, it was shown that the necessity of deciding what rights over children, and what duties towards children, each parent had, in itself necessitated State interference in the matter of marriage. We now add, that care for the public morality is, if not a more urgent, yet on the whole a far more important and wide-reaching argument. It is needless to occupy these pages by replying to that extreme theory, which forbids the State to care for the public virtue. We do not yet believe that its advocates would themselves justify the legalizing of lotteries, betting-houses, and gambling-tables. But it suffices to point out the astonishing vigour, quickness, and unanimity, with which the late Lord Campbell's bill against impure pictures was carried through both Houses; although it authorized and commanded the officer to intrude forcibly into houses in search of them, in a manner quite un-English. This shows how profound, how vehement, how

* Nearly thus the proceeding is described by Morier in *Hajji Baba in Ispahan.*

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unanimous is the conviction in the English Parliament, that corruption of this sort is a formidable evil, which must be summarily put down, even by despotic measures, and that the theory which denies to the State the right and duty of caring for the public virtue is without any support whatever in the legislature.

Truly Parliament is painfully sensible of the evil of a criminal class of children cast on the world either without ostensible parents or with parents who can only corrupt them; and is fully aware that loose marriages, and frequent divorces, would rapidly multiply this dangerous population. When the legislature becomes more alive to its duty, it will study more deeply the causes of the deplorable evil which exists. It does not really need peculiar sharpness of sight to understand the causes; only, an unwillingness to adopt the cure is apt to blind men's eyes. But such a doctrine as free love or unlimited right of divorce would leave our most disgusting evils as they are, and heap upon us a vast new load of evil.

Thus far our argument has been on the whole Conservative. It has seemed necessary to show that the theory which would throw off the State is a baneful delusion. But now, we must turn earnestly to remind Conservatives how powerless the State becomes, from the day that any considerable portion of the people fanatically defy and refuse its marriage laws; and that the impotence of the State becomes worst, precisely against that combination which now is to be feared;—a combination of the old enemy, profligate vice, with the new enemy who confronts us in the near future, virtuously intended fanaticism. From this point, therefore, our argument is in favour of judicious Reform, as alone truly Conservative. In so far as the existing law is unjust, it must be promptly changed—1. as to divorce, 2. as to the extravagant rights given to husbands.

As to divorce, it is well to deal at once, and frankly, with "the religious argument," as it is called. It rests upon one solitary passage in the gospels, which is quite misinterpreted; and when that one passage is rightly understood, it becomes clear that no word is found in the Christian scriptures prejudging the question of divorce. As we read in St Matthew (xix. 3) the Pharisees asked Jesus, "Is it lawful for *a man* to put away his wife *for every cause?*"—as "Moses in the law" distinctly allowed. Observe; the question is not, under what circumstances *a court of law* may pronounce a divorce: that topic is not even touched: but whether *a husband* may under *all* circumstances use the liberty

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given him by Moses, of taking the decision *into his own hand*. The decision reported is: "Certainly not; but for one grave offence only." Now, that reply in no way touches this argument; for, in common with all Christendom, we refuse to the husband jurisdiction *even* in that extreme case. The reply of Jesus did but put a moral limitation on the *Jewish* husband's legal power. It in no respect dealt with the general question of divorce by a public court of law. Hence, upon Christian grounds, it has no place whatever in this argument.

But if there are Christians who have some mental incapacity to accept an interpretation which is not habitual; if, resolutely sticking to the traditional view of this passage, they insist on imposing that view as a law upon everybody; it is proper to remind them of the consequences reasonably to be expected, unless indeed they are happily outvoted. They are aware, that Queen Victoria's subjects are not all Christians. Many are Jews; many are Mohammedans, very many are Hindoos, some are Chinese, not to speak of mere barbarians: moreover an increasing fraction of Englishmen revere Christianity only so far as they find it to be moral and reasonable; and this class of Englishmen can but be driven into a refusal to co-operate with the law, if a formula which they disown is allowed to make the law unjust. Parliament has long conceded to Jews freedom for their own marriages: neither the Dissenters of the United Kingdom, nor the tens of thousands who profess no allegiance to Christianity, will endure to have their marriages controlled by High Church Traditionalism. In so critical a domestic interest the law must be based on broad arguments of human morality, not on the sectarian interpretation of a text. In no other way can the State avert that total neglect of its marriage ceremony, which would be a great national calamity. Germany and America have led the way in remodelling the law, and England will not long endure the present state of things, if it be defended *only* by Ecclesiasticism.

Assuming then that divorce, not at a husband's will, but by the decision of an unbiassed and competent court, is a question clearly open; it is impossible to avoid pronouncing the English law to be still very unjust in its limitations, although it has been sensibly relaxed of late. It is evident from the course of legislation, both in Protestant Germany and in the United States, that so soon as men come to the question with open eyes, they find many more causes of divorce than we have ever admitted:

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namely, not only adultery and cruelty, keeping a wife in terror of her life, or trying to poison a husband; but any other gross conduct which ruins the moral purposes of marriage. Habitual drunkenness is among us one of the most urgent evils, which ought to be a ground of divorce. The drunkard not only cannot protect his wife, cannot duly feed, clothe, and care for his family, but keeps her in constant misery and frequent uncertainty of life. Wife-beating is a daily offence, wife-murder at least a weekly crime, as a direct result of drunkenness. Divorce in an extreme case might be enforced even without a wife's petition, for the sake of children, as well as wife. In some States of the American Union the drunkard is further treated as an insane man; and with much reason. Next, a man who is convicted of crime and punished by a long and distant imprisonment ought *ipso facto* to forfeit all rights to both wife and children, to none of whom he can perform his duties. It is cruel in the extreme to a woman to take away her husband for seven or fourteen years, suspend his power like a sword over her head, and then allow him to come back after long estrangement, probably depraved by intimate association with worse criminals; to usurp her property and her person, and claim the children as his own. A third obvious case of rightful divorce is that of obstinate desertion. But as no dogmatism is here intended, further details are needless: it suffices to insist that the whole question needs to be freely thrown open to discussion, as it is in other Protestant countries; and such relaxations of the law introduced, as impartial reason, unbiassed by ecclesiasticism, may suggest.

So long as divorce is confined to those cases in which it leaves a deep moral stigma on *one* or *other* of the married persons, the difficulty of the topic is what it is in itself; but it is not aggravated by the danger of opening a door to licentiousness. This danger becomes urgent, if divorce be granted under circumstances which leave no stain on either party, and therefore put no moral difficulty in the way of a reputable second marriage: for any unwise laxity may (as we have seen in Prussia) lead to very licentious caprice. On first consideration it may seem that when neither party can be deeply stigmatised, divorce ought to be impossible; yet the reasons against such severity are very powerful, and seem to be unanswerable. First, in Protestants who insist that a nun's vows ought not to be binding when she repents of them and sees them to have been unwise, it is monstrous to press the mere fact of the "marriage vow" as

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an insuperable difficulty: more especially when it has been taken under parental pressure, and at a minor age. Indeed, while marriages of minors (especially of women in minority) are not forbidden, the mere fact of having been a minor is almost enough to give a woman a right to cancel the vow. The difference of a woman's knowledge and prudence at eighteen and at twenty-one is generally very great. Next, when a married couple are decidedly unhappy, separation (so far as the law is concerned) is always possible for them; but separation is not only a poor consolation and insufficient substitute for divorce, but even peculiarly lays them open to dangerous sympathy. And if the law prescribe, that while innocent they may not be divorced, but when guilty they may, it gives a frightful premium on guilt; a guilt to which the conscience may reconcile itself, by the plea that the law will have it so. This argument urgently demands a reply. Thirdly, although there is danger in allowing such divorces, it is not a danger which admits of no precaution. Hungary, though a Catholic country, yet, being peculiarly free from bigotry, has here innovated boldly, and perhaps very sagaciously. If a young couple are unhappy, and desire to be divorced, they address a joint petition to the court; or one alone perhaps can thus petition. The court appoints two or more mediators, generally from the kinsfolk, to hear the complaints, to give advice, and try to reconcile them. Reconciliation is often thus effected. But if failure be reported, the court replies, that they must repeat the application for divorce after three years, and then it shall be granted. If the quarrel is very severe, they probably separate, and obtain the divorce at the expiration of the period. The delay infallibly prevents any from seeking divorce in order to take a more acceptable partner; for no one can hope that another will wait three years for such a reversion. It may even seem that two years would suffice. When the aversion is so decided on both sides, that no one expects reconciliation, we suppose that no social impropriety is felt in beginning a new courtship before the three years is spent. But Hungarians say, that in the great majority of cases the young people are reconciled by their friends long before the time is complete, and do not come to the court again. Of course, when there are children, the evil of divorce is far greater; but so also is the chance of reconciliation greater. If instead of stagnating obstinately in a "non possumus" policy, our legislators would grapple with the difficulty as frankly as the Catholic Hungarians, good sense would discover reasonable solutions.

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In every case for divorce, in which the causes are not in themselves public facts (such as drunkenness and crime), the tribunals which have to investigate details ought to be private, and either partially or wholly composed of kinsfolk and near friends of the parties. In this matter our publicity is outrageous. Our total ignoring of kinsfolk, whether to reconcile, to report, or to judge, is astonishing. We resolutely drag into daylight all sorts of offensive and pestilential matter, and expose to public ridicule weaknesses which ought to be sheltered in privacy by domestic tenderness. It is hardly too strong to say, that our whole law and practice on this subject are *barbarous*. What can be said to palliate the monstrosity, that if a young woman be cruelly seduced, the seducer can have no punishment but a fine, imposed at the expense of a suit from her father for pretended loss of her service during pregnancy? The father must dishonour his daughter in court, exposing her to public cross-examination by an impudent counsel, in order to get the verdict and the fine? Is this the way to save a young woman's modesty in the future?

2. The second point needing reform is, the extravagant power given by our law to a husband. Especially: first, the husband's seizure of a wife's property is totally unjust, and all the arguments for it baseless. Secondly, the exclusive right attributed to him over the children is unjust and pernicious. Thirdly, his rights over his wife's person are extreme and monstrous.

It is pretended by lawyers, that, in justice to creditors, it is *necessary* that a wife's property be vested in the husband and therefore liable to his debts. After they have thus stripped the wife of everything, they next make the husband liable for *her* debts. From beginning to end, the pretended necessity is false. No difficulty is or ever was found by creditors, from that which happens every day, viz. that three sisters keep school together; or any two ladies, or a brother and sister, keep house in common with (perhaps) several children under their charge. Who ever said, or dreamed, that to save the butcher, the baker, the grocer, the milliner or the jeweller from loss, it is necessary or desirable, or could be endured, that as soon as two persons keep house together, one of the two shall forfeit his whole property to the other, and that other shall be responsible for the debts of the former? If a widower, left with children, put his sister or his eldest daughter at the head of his establishment, and the lady order silk dresses or jewels for herself,—or provisions for the house,—do tradesmen grumble because the lady has a right of

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private property, and is not "under coverture," as lawyers phrase it? Does the jeweller think it hard, that he cannot judge by the exterior of the house whether the lady is likely to be able to pay? Rather, we suppose, he is aware, that *no* mere exterior is any guarantee. The more a man spends on his house, the less is left for tradesmen; and many a one who makes display is a bad paymaster. Prudent tradesmen have their own ways of judging concerning the future by the past; and, even when past payments have been satisfactory, yet, if an unusual order be given, they pause before risking to obey it. Some are so prudent, as to sell for ready money only; and this may prove the true security against nine-tenths of our mercantile calamities. But to claim that a woman shall forfeit her property *simply because* she keeps house in common with a man, is mere audacious impudence.

It is the more impudent, and the more ridiculous, because it is most notorious that by the existing law and practice tradesmen have none of the defence which is pretended. When a wife has *much* property, it is never permitted to come into a husband's power or to be answerable for his debts, but is vested in trustees, who deal out to her the yearly income only. A man totally indigent may marry a wealthy wife; he may live in a splendid freehold house, belonging to her trustees; he may have the appearance of a wealthy man, because he spends year by year every shilling of her large income; and then, if one year, after earning the reputation of paying well, he run up high bills and be a thousand pounds in debt, the creditors will find that there is nothing but the clothes on his back of which they can lay hold. Even the furniture, books, and fixtures of the house may be the property of the wife's trustees, who are also the house-owners. In fact, the husband's legal position may be that of a man *lodging* in a *ready furnished* house. So shamelessly false is this argument.

Evidently, it is a mere after-thought, made up to prop an ecclesiastical fiction, which the mediæval law adopted; as though a married woman's personalty were in some mystical sense absorbed and "covered" by that of her husband. Bit by bit of this fiction the law has yielded up, so that the grossest inconsistency with it is now found; yet the phraseology and theory of "coverture" remain, and the fabric of trusteeship (which ought to be optional) is made necessary by it. If a woman possessing property dare to marry without settling it on trustees, and her husband prove to be either a bad or an imprudent man, no

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wisdom, no energy, no prudence or frugality on her part, can save her from utter ruin. By tormenting her into refusing to live with him, he simply carries off her money, and defies her. To the demand of a maintenance he has a ready reply: "Come back and live with me: *I do not want you* to go away." By this he can stop all legal action, and abandon her to absolute destitution,—and as a fact such things do go on;—while, on purpose to drive her from his house, he may kiss his servant girls before her face, and talk impudently to them. Yet, unless she can bring legal proof of adultery,—often impossible,—and furnish money for bringing up witnesses, and go through a disgusting process; the law gives her no redress. It first gratuitously strips her of her property; then bids her recover a fraction of it, if she can, by an expensive legal process and by stigmatising another woman.

So likewise when a wife has no property amassed, but is diligent and clever, a husband can remain idle himself, take away from her the wages which she earns, keep her on poor food and in shabby attire, half starve the children and deprive them of education, while he spends her earnings on luxuries for himself, such as gin and tobacco. A Turkish cadi would quickly deliver a wife from a husband who was a mere idle bloodsucker upon her, or neglected duly to support her.

And for what is the English wife exposed to all these cruelties? Solely to uphold an absurd fiction, to which England is specially attached. Even Austrian law knows nothing of 'coverture.' When the estates of Hungarian exiles were confiscated after the war of 1849, the Austrian judges systematically pronounced that the property of their wives was inviolable; and that wherever it had been seized, this was from inadvertence, and was unlawful. A Hungarian woman forfeits no rights of independent property by marrying: she remains mistress of all that was her own. Yet English law does not know that, as to its fundamental theory concerning a wife's legal status, it is deplorably behind the Continent; nay, behind the Mohammedans. Mr Hepworth Dixon, in his book on *New America* (ii. p. 65) commenting on this topic, says:

> A Persian, a Turkish bride, being married to a man of her own rank and creed, retains in the new household her separate existence as her father's child. A New England bride, on being married to a man of her own rank and creed, becomes lost in him. A Turkish wife is an independent and responsible person, with the same faculty of receiving and devising property which she held in her spinster days. What is

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hers, is not her lord's. She may sue her debtor, without the concurrence of her nearest friend. She may receive a pension, sign a bond, execute a trust. Compared against her Asiatic sister, what a helpless being an American [married] lady seems!

From the private information of Americans, who declare that they state what they know, and that they have in vain tried to convince and dissuade ladies, who have adopted the theory of free love; we are constrained to believe that already in some cities in the North, nay, in accomplished and pure-hearted circles, free from any perturbations of religious fanaticism, the essential *injustice* of the marriage laws is driving women to a defiance of them; and this, though our law of divorce is already beneficially relaxed in many, perhaps most, of the States. A high-minded lady is pleased at the advances of a lover, and consents to become his, *provided* the marriage be wholly illegal! because (says she) "I have no idea of any union but that of equality. If you love me, you cannot wish to make me your inferior, or to exact a promise of obedience, or to get exclusive rights over children; and much less, to take my property[1] as yours, except in the same sense in which I take your property as mine; or to make me essentially dependent, and unable to protect myself. The rights given to *un*married women by the law are few enough: it is indeed very unjust to them also: but such as my rights now are, I mean to keep them. I will have nothing to do with a marriage which sacrifices them. Our union must be between our two selves and God; and we shall love one another all the better, because we do not let any one else interpose." When we learn from the last census, that the United States contain nearly 730,000 more men than women, it is pretty clear that women who are worth having are sure to be able to prescribe to lovers the conditions on which they will accept them; and if this state of sentiment spread, the marriage law will go out of use in precisely the most spirited and most intellectual part of American society. Nor can anything be reasonably expected to secure us from the evil but a decisive change of the marriage law.

We do not need reforms in detail—bit by bit—fragments of justice—so that in fifty years' time English-women may nearly reach the point at which the women of Hungary and of Turkey now are. We need a single, short, sweeping enactment, that,

[1] Notwithstanding what we have quoted from Mr Hepworth Dixon, we are assured that in *some* New England states a wife retains her private property as completely as a sister.

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notwithstanding anything to the contrary in past statutes, no woman henceforth shall by marriage change her legal status or lose any part of her rights over property. Marriage settlements will then give to husband or wife whatever rights are thought reasonable by the contracting parties.

Fashion has still tyrannical power, not over women only, but even over men. When the great "beard-movement" commenced, it was ludicrous to see how many men wished to join it, but did not dare, for fear of being singular. For more than two years there was suspense, and it almost seemed to be a failure, through the strong opposition of influential persons at the head of great establishments: then in one half-year the new idea suddenly triumphed; and huge beards, huge mustachios became quite a national feature in all the cities. So too may it be in the matter of marriage. If ever that come about (which we heartily deprecate, and desire to avert by the establishment of justice), but, if ever Englishwomen *do* rebel against the marriage law, it may begin with some martyr-spirited heroine, perhaps some accomplished and graceful lady; who will no more quail from male or female reproof, than Dr Mary Walker or Dr Elizabeth Blackwell; and just when men begin to think it is all nonsense and moonshine, they may find women of the working classes by the hundred and the thousand following the example,—sheltering themselves from reproof by their own numbers. It is to obviate this result, that we implore all true and genuine Conservatives not to delay and use half measures, but to do justice to the sex in good time. He who tries to uphold injustice is the true and efficient revolutionist, while he thinks he is Conservative.

But, not only in regard to *property*, also in regard to *children*, the law is unjust to women. The mother has to undergo much in bringing a child to maturity; next the agony of childbirth, the exhaustion of suckling, the countless cares of tending and watching, by night and by day. The child becomes the darling of her heart, the image of her dreams, a great centre of her thoughts and hopes; and after all her toils, the law permits a husband to take the child permanently out of her sight, and (if he choose) to put it under the charge of an enemy, perhaps under that of a rival, his concubine, who will fill its mind with falsehoods and teach it to hate and despise its mother. Such things are not possibilities merely and dreams; they are stern realities; and the law gives her no redress. All who are in middle life remember what happened, when a prime minister was prosecuted

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for adultery. The facts are so public, that it avails not to suppress names. Lord Melbourne, an elderly gentleman of high accomplishments, was fond of the company of a very intelligent lady, the Hon. Mrs Norton, young enough perhaps to be his daughter. Mr Norton became jealous, having been worked upon (as some said) by Tory politicians; an explanation which received plausibility from the indecent and inhuman triumph of certain Tory journals, as soon as it was announced that Mr Norton had called the prime minister into court as an adulterer. The jury acquitted Lord Melbourne. Was not then Mrs Norton's reputation left unstained? Not wholly. For the hostile counsel had inveighed maliciously on certain ambiguous facts, which ought to have been explained and were not. Mrs Norton asked leave to explain them, and was not permitted, *because she was not a party to the suit!* It was a question (forsooth) between the two men only: *she had no business with it!* Mr Norton, having tried to fix on his wife this dreadful stigma, and failed, did not love her the more for it, and apparently hated her. Having ejected her from his house, he refused to allow her to see her children. She pleaded for leave to see them *only once in six months*, and *in the presence of a person appointed by her husband;* this was refused her. She brought the question into court, but in vain: her husband's inexorable refusal was pronounced legal. The matter was treated in the House of Lords,—and no wonder, since the prime minister and a lady with the title Honourable were concerned,—and an eccentric legal peer * of vast powers and experience expatiated on the injustice with which Mrs Norton was treated. But after a vehement speech all on that side, he wound up by saying, that our law is so consistently and monstrously unjust to women, that it is not worth while to give a fraction of justice in one particular case: he therefore gave his voice *against* her. We claim that men with a better heart than that peer will do to women the justice about which he prated.

In the matter of children, when the quarrel of parents is severe, some compromise is evidently needed. In no two cases would the same compromise be the best. Sometimes the mother might have the control until the age of fourteen, and the father after that age: but the compromise should in each case be settled, under the guidance of general principles, by an impartial court. A divorce which stigmatised one parent would ordinarily withdraw the children from that parent's control; as, when

* Lord Brougham, ex-Chancellor, once known as Henry Brougham.

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drunkenness or felony occasioned divorce. It does not belong to these pages to define what ought to be enacted, but to protest against the extreme and obvious injustice of the existing law. Since the Divorce Court has been established, such an injustice as refusing, to a lady whose reputation was at stake, leave to explain what was obscure (we believe) would not be allowed: but English law has much yet to do, before it can pretend that this injustice is a thing of past days.

It is not necessary here fully to open, what is meant by saying that "a man's claims over his wife's person (now justified by the law) are extreme and monstrous." It suffices to press, that our judges still maintain, that a man has a right to lock his wife up, if he fears she will run away from him; and that, at no distant time, judges pronounced that he might chastise her *moderately* with a *moderately* thick stick. Recent judges have overruled this, without any new legislation. Such things give a painful idea of the uncertainty, as well as injustice of our law. Until the marriage laws are made more just, it is morally impossible to carry out legal severity against those who set them at naught, even when the result is profligacy most pernicious and most dangerous to the State. As our rugged climate and the toil needed to supply our more elaborate wants of body and mind, put a vast chasm between our condition and that of the Polynesian savages; so the frightful pestilence, which in *our* constitutions is generated by profligacy, becomes an additional and overwhelming necessity for State interference against moral corruptions. The topic can here be only alluded to, not dilated on. But inasmuch as no pestilence will confine itself to that class of the community in whose filth or vice it springs up; neither will this pestilence, if allowed to be unchecked, spare the innocent, but will spread its miseries further and wider still. The necessity of checking such a flood of evil is a new argument for divesting honourable marriage of every gratuitous burden and every injustice.

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ON STATE PROVISION FOR VICE, BY WARRANTING IMPUNITY.

First Part of the Tract of 1869, *reprinted.*

"Make not provision for the flesh, to fulfil the lusts thereof."
Paul to Romans xiii. 14.

UNDER the name of the Great Social Evil, our newspapers have for years alluded to an awful vice, too evidently of wide prevalence. Private effort is powerless to prevent: it can but, too late, rescue a few frail victims. Charitable persons, though well aware how much better it is to tear up roots of evil than to lop twigs, yet have no other form of action, but to slave at a task which is comparable to mopping out the ocean.

But at length the State itself has been forced out of its apathy; the State, which can not only punish those primarily guilty, but act through institutions upon men's habits, morals, and circumstances. Being largely *able* to prevent, and being itself vitally dependent on the public morality, it is *bound* to prevent; and is still more solemnly bound not to facilitate, to occasion, to sanction vice, or intensify depravity. Dr Gourley, a veteran physician, long acquainted with the army, was peculiarly shocked at the "rottenness" * (such is the word) of our most splendid regiments in the Crimean war; and for a series of years made energetic representations concerning the unsound health of English soldiers. Sir Alexander Tulloch and other distinguished persons entirely agreed in Dr Gourley's judgment, which declared the evil to have removable causes. In a paper read at Bradford to the Social Science Association Dr Gourley recited the leading facts. 1. The soldier is entrapped into the army by making him drunk: 2. he is kept in artificial idleness, as a pampered male animal, in wretched *ennui* for eight hours a day: 3. he has the drink-shop near to him. Dr Gourley was too tender to add, what is

* Nevertheless, others maintain that the only "rottenness" was either from unwholesome barracks, or from "drink;" and that, though the drink generally led to another vice, it was *not* the latter which incapacitated the soldier.

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now loudly asserted, that superior military authorities regard it as a natural right of the soldiers to have loose women hanging about the barracks or camp. Be this as it may, Parliament in 1866 took the matter up with silent unanimity, and passed a vigorous Act, entitled The Contagious Diseases Act,—Diseases, in the plural! Who could guess that this meant *one* shameful disease? The public, both then and later, supposed it to refer to the Cattle Murrain.

And of what sort was the Act? It had not a scrap of *prevention* in it. It did not remove one of the incentives to vice, nor one of the facilities. It dealt with effects, not causes. It did not regard the vice as an evil, but only the disease engendered by it. It is evidently based upon the axiom, enunciated deliberately by an eminent Colonial Governor, "Prostitution is a public necessity;" which is practically interpreted, that the trade is a fixed quantity, against which it is vain to struggle: that, on the contrary, we must acquiesce in it, *accept it as an English institution*, and try to make it as safe to health and as decorous as may be.

But that is not all. So eager were its authors and advocates to make the indulgence of foul lust safe and comfortable, that they unhesitatingly broke down all the legal safeguards of honour which are the birthright of chaste Englishwomen. If the right of jury trial were suddenly withdrawn from the *men* of Hampshire or Devonshire, insurrection might be expected, and certainly would be justified, if successful. The jury is the oldest and most sacred safeguard of English liberties. Far older than Parliaments, it grew out of the oldest Saxon rights. Surely it is among the earliest and most essential duties of Parliament to guard for the nation, against the invasion of the Executive, those tribunals which protect innocence. But against women, and women alone—(from whom no insurrection is feared)—French despotism has been brought in over large areas of the country, and under pretences pregnant with despotism to men as well as women. We have lived all our lives under the belief that no *square yard* of Queen Victoria's realms is under martial law, but only those *men* who have by their own act submitted to it. But now, if the Queen's servants quarter her soldiers in some town, the place is called a "garrison town," and under cover of this word it is pretended that the civil population of that town becomes a military population. All the men, as well as the women, may suddenly find themselves under martial law, unless the principle be indignantly rejected, and the Act embodying it repealed.

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By the Act of 1866 the whole area within five miles of such towns became military to the women. The Act of 1869 extended the radius to fifteen miles,* thus multiplying the area by nine; so rapidly does despotism advance. So many towns and villages are now taken in—(nineteen towns and *eighty* villages, including Greenwich, which is in no sense a military town)—that a very numerous population has been swept into the military net, and now the advocates of these Acts quietly talk of the population which is *beyond* these circles as, alone and in contrast, "the civil population."

A Bill which they attempted to carry through Parliament last session, and which they are still eager to carry, is named by them, "A Bill for *Extending* the Contagious Diseases Act to the *Civil Population*;" where, with new effrontery, they mean women only, as if men were *not* civil population. It is difficult to imagine any reason for such phraseology, except to throw dust into the nation's eyes; and that has effectually been done. *Three* sets of laws have been called by the same name:—laws about cattle disease; laws about such contagious diseases as scarlet fever; and thirdly, laws about a class of shameful diseases, of which one only is contagious. Hence, when the newspapers omitted to report debates or comment on what had gone on, the mere list of the Acts of the session gave no information to the public. No one can believe that this was accident.

Thus the just ancestral defences of women have been summarily swept away. I quote the words of an able lady who complains bitterly of the law. "Any woman," who resides upon one of these vast areas, each having a semi-circumference of full fifty miles, "can be dragged into court, and required to *prove that she is not* a common prostitute. There is no proper trial allowed her: no jury. It is sufficient for her condemnation if the policeman who arrests her" (or rather the Chief of the Police, to whom he gives information) "swears that he has *good cause to believe* that she is a prostitute. The policeman is not required to produce *proof* that he has good cause for his belief." Nay, she has no power to cross-examine him, nor has the magistrate any other information than the single affidavit of the police inspector. She has been arrested on the authority of anonymous whispers; and, as if to carry out the process according to the historical routine

* The police also are empowered to arrest women at a distance of ten miles *beyond* the circle of fifteen miles radius; so that the whole country is being overspread with "*gens d'armes*" and spies.

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of the universally execrated Spanish Inquisition, spies are employed to watch and dog young women,—literally *spies*, for they are policemen in plain dress. All know how necessary it is for the spy to have something to tell: hence, no free nation has hitherto endured such an institution, even with the protection of jury and judge.

But (it is no use denying the fact) women are held *necessary* for the soldiers and sailors; so, prostitutes must be had, who are then ousted of native English right, whether because they come at call, or because they will not come. However, this law has enacted easy ways of getting them by force and fraud. For instance, a profligate man may solicit the virtue of a young milliner, and be indignantly repelled with insult such as he deserves. His revenge is now easy. He has only to slander her vigorously—and that in entire secrecy—to the chief policeman, and, to make his game sure, allege that he has himself caught disease from her. He is quite safe, for he will not have to repeat this in any court, and the policeman will not "inspect" him. If he is believed (as he is sure to be, if we judge by the evidence before the Lords' and Commons' Committees), the woman is arrested, carried to a surgeon for (one may blush to write) a forcible instrumental introspection. She is invited to sign her name "voluntarily." If she refuse, she is threatened with being brought into public court before the "bench," a thing terrible to simple ignorant women. The "bench," however, means one magistrate. Should he believe the chief policeman (and he has no means of knowing anything at all but on his information), he can sentence the woman, if obstinate, to prison and hard work in perpetuity. If she yield, she is registered as a "prostitute," forced to herd with them as often as the surgeon summons her for examination (which is never seldomer than once a fortnight), loses her reputation, and now at last the wicked man who slandered her may have a good chance of gratifying his lust. Or again, he may actually have seduced her by aid of money; he can then inform against her "as a prostitute" (for the word has no legal definition), and save himself from all further results.

That chaste women are, as a fact, cruelly and wickedly wronged by these Acts is confessed by the evidence of Mr E. K. Parsons, Visiting Surgeon of the Portsmouth Lock Hospital, who was examined by the Commons' Committee; and was asked (398) whether, if the police *by error* bring up a really modest woman to the surgeon, mistaking her for a harlot, the woman signs a

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voluntary paper before the surgeon examines her. He replies: "Yes, they all sign a voluntary submission, *unless sent by order of a magistrate.*" The questioner continues (399), "But a modest woman would *decline* to sign that paper, would she not?" *Reply:* "No: for this reason. The police, believing the correctness of their own *impression* (*!*), say: Very well: if you do not sign that, you go to the Bench. And then the woman says in order to avoid that: Well, I do not mind going into a private room, and *speaking to* Mr Parsons. And she will sign the voluntary submission." (400.) *Question*: "Therefore they [really modest women?] sign a voluntary submission, under the *fear* of being taken before the magistrate?" *Reply*: "Unquestionably."

That modest women should be brought up by the police *without the cognizance of the magistrate*, is a phenomenon so familiar to the surgeon, that he knows exactly what is sure to happen. The woman is sure to be terrified into signing her name, and losing control of her person for a whole year. The surgeon makes the sharp dry statement without betraying whether he approves or abhors. Is he afraid to offend his superiors?

We here see how little the magistrate need concern himself about it.

Mr Parsons also says (370) that the police are very apt to jump to the conclusion that a woman is a prostitute if they see her out at night.

When Dr Brewer, Chairman of the Committee, put the question: Must not a woman, before she is registered as a common prostitute, be getting her living by it?" Mr Parsons coolly replied: "Well, she *ought* to be; but all I can say is, that if you confine yourself to that definition your Act will never succeed." The reply does but condemn the Act. Nothing can be more manifest, on mere reading of such regulations, what an awful power it gives to malice and credulity; and peculiarly, it has been observed, to jealous slanders from the "registered" women, to whose information the authorities gladly listen. The women who submit to the distressing claim made upon them, herein pay dearly for their licence, and, "like certificated hawkers, are jealous of those whom they suspect to practise without the licence." Not many years back the evidence of a notorious harlot, given on oath, was scarcely believed by judge or jury. Now, so violently have things changed, her very whisper may suffice to ruin a chaste woman, who has no means of even guessing who has slandered her. Perhaps more disgusting still, is the accepting of *secret* accusation by letter from

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"gentlemen," who complain that they have been infected with disease by this or that girl. And all this in free England, and as a convenience for army and navy, who, being under despotism, might easily be kept from loose women, if there were in their commanders half as much good sense as in a rigid old Roman. Our authorities pretend mysterious necessities, which will thwart them, if they try; but a vigorous Roman was never thus thwarted. Such a thing is not heard of in history. Unless this whole idea was fiction—(and I wish it were)—it does but prove that, by accustoming our soldiers and sailors to regard sensuality as a legitimate reward and a necessity of their life, we train them for enormities worse than anything feared by an ordinary Roman commander. Vice, if once it be made habitual, and idleness gives it play, goes on into new vice the moment its vile craving is disappointed. Strict chastity, the only *natural* state for man, is the sole cure. Once indulge the *un*-natural (for such is all sensual sin), and the curb loses its power. The Romans knew and found, as certainly as we, that an army soon lost half its strength by entering a luxurious and corrupt city. Happily for them, the "speculum" was not invented. They looked only to discipline and steady industry, not to medical arts, nor did they dream of making vice salubrious. We, from our heights of science, do but stoop into a fouler grovelling and a materialism more besotted.

In Section 40, it is enacted that if any one exhibits a document "*purporting to be signed* by a Justice . . . or by *any Person* in Her Majesty's Service or in that of the Admiralty, IN ANY PROCEEDING UNDER THIS ACT, it shall on production be received in Evidence, and *shall be presumed to be duly signed*, UNTIL THE CONTRARY IS SHOWN." If I understand this, the Justice without seeing or hearing the woman, may give to the chief policeman a heap of papers ready signed, to use at his discretion; in which case the chief policeman has everything in his own hand: for where or how is the woman to prove that the document which condemns her is not "duly signed"? or to know whether the signing of blank warrants is signing "duly"? Moreover, in the Act of 1869, the Visiting Surgeon himself can imprison any woman upon his own mere suspicion. Are we in England? Do any high ladies hear this, and say: "Oh! the police will only touch plebeians"?

The mode in which the Act of 1869 was carried, intensifies the marvel and the direful nature of these proceedings. First, a Bill was introduced to extend the system over the entire United

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Kingdom. Certain societies in London, whose aim is to rescue and protect women, gained suddenly an understanding of what has been three years going on. They addressed a vigorous memorial to the Government, which led to the withdrawal of the Bill, and the appointment of a Committee of Inquiry; but on the Committee were placed M.P.'s who were Vice-Presidents and active members of a society which had been formed to promote the extension of the system: and it is observed that the Committee *totally excluded the two main questions*, morality and jurisprudence; also, the witnesses examined were principally officials interested in the continuance of the system. The report is, nevertheless, to every one who regards Morality and Just Law as paramount, a decisive condemnation of the Act of 1866, which it for the first time made fully intelligible to the public. Notwithstanding, after the benches of Parliament were deserted from the full belief that no *new* business would be brought in, this new Act of 1869 was suddenly passed in the three or four last days of the Session, and in the total silence of the newspapers.

Now that the secret has been revealed (though very few public prints seem willing to aid in informing the nation of the facts), amazement and indignation are stirring up many bosoms. Ladies, young and old, are filled with horror at the outrages offered to their sex, and lay aside reticence. I have not heard the name of a woman who is not intense in aversion. A second Society has arisen to oppose the intended Bill.* Disgusting and ghastly as is the subject, noble-hearted ladies are coming to the conviction, that the inevitable debate of it over the breadth of the land is a painful but salutary medicine.

The Act of 1866 introduced a new, an unheard-of *punishment*. A harlot had never before lost rights over her own person. To violate her was as criminal as to violate a chaste woman. But now, if the chief policeman swear that he "has *good cause* to believe" that the woman is a harlot, the law forthwith commands that the woman's person shall be forcibly violated by a way of its own. We thought that torture was disused as a punishment: here is torture of mind, and for aught we can tell, of body,

* That Society is The National Anti-Contagious Diseases Act Extension Association, advertised in last page—Secretary, Frederick Charles Banks, Nottingham; but since the first edition of this tract, a Ladies' Society has also been organised—Secretary, Mrs G. Butler, 280 South Hill, Park Road, Liverpool.

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imposed by summary convictions which may rest on secret irresponsible whispers. But in the opinion of its defenders, it would seem that the Act has only introduced a new *crime*, Clandestine Prostitution. If a woman will but write on her brow the horrid word Prostitute, if she will not try to hide her shame, if she will enrol herself in the forlorn hope; they interpret her to be an honest creature, who is not ashamed of her trade, is not troubled with modesty, and of course can have no objection to being "examined" by male surgeons twenty-six times a year:—to call *that* a punishment, or a torture, they regard as simply absurd. The surgical inspection merely aims to ascertain whether she may possibly impart contagion *to* a soldier. If not, then she is instantly free to receive contagion *from* him. If, on the contrary, she is judged to be unclean, she is carried into hospital and cleansed *first*. Dismissed then anew on her mission, she is bound to come for re-examination in a fortnight. Such is the clever and delicious routine, which Justices of the Peace and honourable Surgeons are reputed to conduct. Last year, we are told, there were 18,000 examinations: how many there will be, and with what speed the wheels of the machine must turn, if the whole kingdom be overspread by it, no mind can conjecture, nor how vast will be the expense. A single Hospital in Devonport has cost recently about £30,000; and new Hospitals for this one shameful disease will have to overspread the land. What a proclamation to the world that we are become a Sodom and Gomorrha!

It is acknowledged by the defenders of the Act, that most regretable injustices have been inflicted under it on wholly chaste women. But that to which they are blind, is the cruelty, nay, the unpardonable iniquity, of driving women into a shamelessness which they are themselves trying to avoid. The law insists, that if a girl who has been wickedly seduced is driven by starvation and misery to sell her person, she shall *not* hide her shame, she shall *not* cherish any remains of modesty, she shall *not* nourish the hope of getting back into honourable ranks; but she shall professedly enlist in a trade which she abhors,—thing and name; she shall abandon all power to blush, and cheerfully lay herself out, as often as required, like a carcass for dissection. "Oh!" cry the supporters of the Act, "she soon becomes accustomed to it." *Accustomed!* But if you once accustom her to it, do you expect her ever to recover modesty? And if the law deliberately deprave her,—a thing which *nothing* can justify,

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—will this tend to make soldiers, or society at large, more moral? or (if we must meet Materialists on their own ground, and think nothing of sin and vice, much of physical discomfort) can it possibly do anything but *extend disease?*

The violent punishment here enacted on disobedient women proves that the framers of the Act well knew how intensely the women abhor the process,—how truly it is a mental *torture.* Altogether, both the novel unconstitutional proceeding, and the blind disregard of the universal corruption which such proceedings must cause, show that the object was to get at any cost the completest possible register of loose women and the most frequent possible examination. Paris gave the pattern to which it aspires. The narrative of what goes on in Paris is truly repulsive. Dr Acton states that about *a hundred and fifty women* pass through the hands of the medical man [men?] in *two hours!* The women are brought in vans to a central point;—and of course all the little boys ask what it is for. The women become so very abandoned (says Dr Acton), that a guard of soldiers are always at hand, to preserve order.—I do not pretend myself to know hideous details; but some one has sent to me the *Medical Times and Gazette* of September 25th last, where (among other things spoken more plainly than is pleasant to repeat) their Surgical Correspondent from Paris declares that the police cannot suppress "the worst class" of women, namely, the "clandestine" traders, whose "clients come from the *wealthier* portion of the community;" and from these proceed "by far the largest amount of disease." The Physical scourge, says he, *is increasing* in Paris: the "examinations" of the "public girls" do not answer their end. Inspections, he adds, ought to be made "twice a week and rigorously, instead of once in two weeks, *which is merely absurd.*" Lists cannot be made complete; not only because the women who have richer customers get beyond the reach of the spies, but also because "it is hard to say where libertinism ceases and prostitution begins."—Such is the necessary result of brute materialism. Such is the encouragement which Paris gives to her imitators.

But as regards the effect of impure despotism in Paris, we need not rest on any statistics or special information. The broad fact that Paris is the great medical school to which men resort for the study of this terrible disease, speaks for itself. It is useless for any doctors to try to blind us. The disease evidently and certainly is commonest and most virulent in the very city where medical art and unshrinking police-violence are employed

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to make the detestable vice safe, and, as Mr Simon expresses it, "to warrant women clean for hire."

It is not amiss to add, that a private International Society of ladies is rising on the Continent, to put down the heart-breaking and disgusting enormities of the system, which amiable materialists are straining every nerve to impose upon England.

At the recent Congress (1869) of Social Science in Bristol, a surgeon who may speak with some authority, made in defence of the Act and Bill, a remarkable and very painful statement, which has been printed. He is the medical officer of Health for the place: and he said that in all Clifton almost every youth became infected with a shameful disease before puberty. Most of us will cry out, that this is incredible: we may believe, or disbelieve him. If we disbelieve, we have a right to moralise, how untrustworthy is the testimony of a specialist concerning his favourite disease. If we believe him, Clifton is not likely to be worse than other places; which indeed was the exact point of his argument. It contains numbers of wealthy families, with much zeal for religion in various forms. If this is a specimen of England, what else is she, in the upper ranks at least, but a whited sepulchre? It becomes us to give up self-righteous airs; to remember that in Catholic Ireland the women cannot be bought, and that even in Mohammedan Turkey there is no class of harlots, although (forsooth!) in England we are told they are a necessary of life. It is thus made out, that of the two influences which alone keep men chaste, viz., 1. moral principle; 2. fear of disease, the former has almost wholly vanished from a great mass of our richer classes. Undeniably therefore, if any Law of this nature effect, or rather *seem* to effect, its object,—that of enabling vice to indulge itself with impunity,—*the vice will be greatly extended.* If then we are a quarter as bad as we are told, it is QUITE CERTAIN that the law must *fail* of its object. For if any truth of physiology is sure, it is sure that *no medical art can counteract the natural punishments of excess.* When men by the thousand are set loose, with confidence of impunity, they will spread contamination more widely than ever, polluting also the whole moral atmosphere. Family life, already much shaken in the fashionable world, will be deeply undermined. Ancient Greece, imperial Rome, modern Paris, all warn us into what abyss England will plunge. Art will assuredly pander to lust, not only by advertising impunity to vice, but by overthrowing Lord Campbell's Act, and in ways on which I am reluctant to write without necessity.

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The decree will have issued against us, "Let the unclean become more unclean still."

Indeed another foul principle in this Act cannot fail to multiply shameless and cruel horrors. It pretends, *not* to repeal the penalties against brothel-keepers: yet it has practically abolished them wherever the Act is applied. Yes! the brothel-keeper, the avaricious accomplice of the rich seducer, is already brought into official relations with the authorities, and is avowed to be "a valuable source of information." But if the brothels be honestly suppressed, how can the soldiers be served? No such attempt has been made, or will be made, while the law stands. The execrable trade, in comparison with which mere harlotry is virtue, is now on pleasant relations with official persons, and receives their compliments for improved cleanliness and decorum. One solemn duty is laid upon the brothel-keepers—to inform against *unsound* harlots. If this most hateful of all trades obtain impunity, *no other trade in vice can long be punishable.* Thus, while the nation was profoundly ignorant, and Parliament (we must charitably believe) so overworked as to be practically in torpor, military men and medical specialists have introduced a deadly and revolutionary principle, fatal to national morality. Our specialists are now offended if one call this legislation *insidious;* although its promoters have distinctly avowed the necessity of great caution, lest the religious and moral part of the nation become aware of its details.—But we have nothing to do with persons, only with facts and with principles; and where vital interests are at stake, to mince words would be folly and cowardice.

Regard for the health of the *army* is the plea which introduced on the statute-book the Acts of 1864-6-9. Astonishing indeed has been the course of legislation concerning soldiers. Parliament deliberately winks at men being entrapped into drinkshops, and while drunk, cajoled to enlist. Thenceforward the kidnapped men forfeit every vestige of English liberty; have no appeal to a civil court, are liable to insult and cruelty; and if they complain, find their tyrant to be their judge. Down to the miserable minutiæ of beard, hair, cravat and tight trousers, they are stript of control over their bodies and their dress. Only a few years back, young soldiers fell down in suffocation and died, in marching from Windsor, because their cravats were too tight. They are kept in constrained idleness, and are turned into toys and puppets, or into pawns on a chess-board. Drinkshops are

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brought close to them. Many stupefy by drink their grief at leaving home and parents. Ennui eats them up. On some occasions, allowances of rum are served out to them. Few of them are allowed to marry. Harlots are regarded by many commanding officers as the natural and necessary complement to the camp and barrack. A few years ago it was attested, that the nuptial privacy of married soldiers was—the common dormitory! The soldiers in the Regent's Park barrack sickened and died of foul air, because they *did not dare* to complain to the colonel. When, with such a mass of tyranny, crushing men's souls and bodies, it is discovered that the soldiers are "invalided" by vice, and cannot go through their drill; then at last the collective wisdom of Parliament,—credulous to statistics and specialists, incredulous to moral principle,—instead of putting away drink and idleness and harlotry and slavery, nails these down upon the unhappy slaves, and only thinks how, by medical cleverness,—at the cost of all which remains of female modesty, throwing overboard the most sacred principles of English law,—how soldiers may be enabled to practice, under the influence of drink, vice worse than brutal, without being incapacitated for parade or battle.

At the same time, so long as we regard the system in its relation to those women only who are visited by soldiers and sailors, it is able to get from the military and naval authorities (not from Parliament) a supplement to the Acts, which take no notice of men at all. So intense is the army despotism, such a prostrate slave is the soldier, that his commanding officer can, by his own mere will, bid the man to strip himself naked, and exhibit everything naturally secret: not for any offence which the soldier has committed, but barely because it is *safest* to do so, before letting him "go freely about." (What that means, we know.) This military power has been used. At least this is a little, a partial protection to the women, and may be said to make things *fair* between the sexes. The soldiers are subjected, as well as the women, to a periodical examination, though not impartially: for, first-class petty officers, and all above them, are exempted,—as if contagion did homage to rank and station! Moreover it is attested by a high military officer, that in some regiments even the common soldiers had been set free from it, because it hurt their feelings, and disgusted the surgeon. Of the women's feelings no account is taken; and the surgeon, it seems, has no disgust from operating on *them*. However, the great mass of the

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men in the ranks, here and on foreign stations, are periodically examined. But male civilians are not under such despotism; and both the Acts are silent about them, as was the Bill.

This may not be marvellous, yet it is infamous. No epithet of scorn and hatred can be too strong for this dastardly favouritism of the male sex. Who are the original seducers of women? Men. Who cause disease in women, though you heal them fifty times? Men. Now to a man the examination is only disagreeable and humiliating; it is not depraving. No surgical operation is required. To *him* there is no danger (which to the unhappy women is great) of contagion from an unclean instrument, nor of cruel disease from the repetition of a hideously unnatural process. As a cumulus of iniquity,—while it is universally agreed that the dreaded mischief is unmistakable in a man, first-rate medical authorities assert that in the case of women the most skilful and laborious surgeon may be deceived,—may condemn the healthy, and fail to detect the unhealthy. What chance then has the surgeon, if women are to be tossed in upon him by the score or the hundred? What armies of surgeons will suffice, what array of huge hospitals, if this system is to overspread the whole United Kingdom? But in fact, if the principles of the Act are to be accepted;—if spies, tattling, and affidavits of what one who has listened to spies and tattle *thinks* he has "good cause to believe," justify summary conviction and violating of personal secrecies; there is obviously a much speedier and surer way to "stamp out the murrain." Set the spies on *men;* take evidence from the harlots themselves (and from the brothel-keeper too, if you will obstinately tolerate her) against *men.* Harlots would quickly point out grey-haired fathers of families, surgeons, or, now and then, a clergyman, who frequent brothels and seek their company. If a soldier's evidence is accepted as to the woman who contaminated him when he was tipsy, why not take the woman's evidence as to the rich man who previously afflicted her? The only reply that can be given is, that legislators are tender over their own sex, and especially over very respectable people. Nay, we must add, we should need female magistrates, to hinder so just a law from being a dead letter.

There are times and places when Despotism is beneficial and necessary. Compulsion is sometimes eminently right; at other times infamously wrong. In the face of a public enemy, or in warlike operations, or while masses of men are handling deadly weapons, an energetic rule, which requires instant obedience

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without appeal, is most rightful. So in time of pestilence we need a dictatorial authority. But besides an adequate necessity for despotism, two conditions are essential to prevent cruel abuse: first, the despotism must be impartial; next, measures equally energetic must be used to annihilate the CAUSES of evil, and thus limit the despotism to the shortest time. In both respects this despotic Act utterly, undeniably, indefensibly breaks down.

I must not pass by one very singular argument, which is pressed in conversation by the supporters of their Bill, in proof that it is urgently necessary. They assert (and alas! it is too well attested to deny) that brothels are largely frequented by married men. "Well!" say they: "are we to endure that a husband shall frequent evil houses, consort with unsound women, bring back disease on his unhappy wife, and transmit it to his innocent children? Think of the poor dear children! Malignant virus is being introduced into respectable families. We must by any severity stop this contagion. You cannot stop it by the ordinary process of law. This sharp malady needs sharp remedies." So far, we might agree. One might expect them to add: "Therefore, we must spy out these respectable family-men, arrest them, cleanse them, and break up the brothels." But instead of this, they reason: "Therefore, by operating on the *women*, whether they like it or no, we must bring about, that respectable husbands shall find none but sound harlots in the brothels." For my part, I find this to be a very masculine argument; but what thoughtful man would not rather, ten times over, sanction a limited Turkish polygamy?

Polygamy indeed, viewed historically, is a respectable institution. Milton could allude to it in the poetical phrase, "as saint or patriarch used," and wrote an elaborate treatise in its favour. It belonged to an earlier and ruder state of man, while border-war was perpetually cutting short the lives of young men, and unmarried young women could scarcely get protection. It naturally dies away as fast as peace and order are established. It has nothing physiologically vicious, and becomes condemnable only when maintained artificially beyond its own age. But the practices into which England is falling are utterly impure, for they deliberately enthrone the Flesh above the Spirit, by discarding all love and faithfulness. They grow naturally worse with time, and when fostered are the certain ruin of every nation, as is familiarly known in history. We have reached a very dangerous crisis,—the era of huge towns and empty country, with

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great political centralization, a floating disorganised population, abundant capital eager to trade energetically in vice, much hollowness of religion in political and official men, and an absorption of religious teachers in other tasks than that of teaching morality. We see a senseless luxury increasing, the gentry later in marrying, fine courtezans rising in outward honour, and chastity on the decline among poorer women, who are beset by starvation and by bribes. Add to this, at least one court physician preaches the value of harlots, entirely despairs of moral influences on young men, and regards vice as an inevitable fatality; and at least *some* medical men audaciously assert that chastity is unhealthful to young men, and prescribe harlotry as a medical remedy. How many thus preach in the dark, it is impossible to learn: but the doctrine comes from Paris, where many English students now finish their medical education. If, in such a national stage, Public Law steps in, to facilitate and regulate, as a part of life to be counted on, *that* sensuality which is condemned by religion, by morality, by conscience, by experience;—which maintains a body of women bereft of womanhood, some heart-smitten with agony, others callous and misanthropic, but all ever growing up against domestic purity;—a system which, when it once becomes national, is fatal to tenderness of heart and conscience, to industry, and at length to patriotism; what is to become of this people and empire? A widely learned man once asserted,—and too nearly with truth,—that a corrupt individual may be regenerated; but a corrupt nation, never. State-patronage of this deadly vice in army and navy pronounces it venial in all men whose position makes marriage difficult, and in married men under very many circumstances. To go wrong on this vital question, may be the last blow of political suicide to our aristocratic and commercial classes. They will leave no hope of purity and safety for this nation, but from utterly democratic plebeianism.

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REMEDIES FOR THE GREAT SOCIAL EVIL.

From the Second Part of the Tract of 1869, *reprinted* 1884 *with a few omissions.*

A CHALLENGE has been thrown out to those who reject this Bill,* not to be "*mere obstructives*," but to suggest some cure for the frightful evil. To that task I now address myself.

No man of sense can imagine that immorality pervading a nation can be quickly cured: nevertheless, wise measures may at once reduce and limit the mischief. We can leave off to do evil, while we learn to do well. We may pass laws to punish those whose guilt is primary, and we may suppress the obvious and most effective incentives or facilities. Beyond this, public institutions have to be improved and social errors set right. Further yet (what it would be in vain to touch on in these pages), where isolation, poverty, misery, and the crushing of population into pigsties are the overpowering causes of women's self-debasement, all improvement in the laws of Land and of Building, also restricting the size of towns, are of course among the preventives of this pernicious evil. In general, also, whatever abets roguery, ignorance, and brutality, abets also cruel unchastity.

I. The first head of cure is obviously to punish those whose guilt is foremost and most fruitful; these are, the Seducer and his Accomplices. Hitherto, there is *no pretence* in England of punishing the Seducer, as such. Men, who alone make the laws, make them with little account of women. One might fancy that the legislators either fear to be legislating against their own sons, or are conscious of personal guilt: else why, for six hundred years, have they been so very lax? As to the seduction of their own daughters, they have no fear, though they would shoot through the heart the men who perpetrated such a thing. But if it be only a poor girl, how much does either House of Parliament care?

Women who are seduced, are generally minors, who have no

* A Bill further to extend legislation that undertakes to provide "Safe Harlots" for profligate men.

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legal power to give themselves away into marriage. Surely then they have (or ought to have) no legal power to give themselves away *without* marriage. Nor yet have their parents a legal right to sell their virtue; which is morally the worst form of being accessory to seduction. Those who have looked closely into these dreadful matters report that children of tender age are bought of a wicked parent—or if orphans, of some uncle or aunt—by a brothel-keeper. She sells them in turn for a large price to some rich customer, who is too delicate to risk infection; hence comes a perpetual supply to the market. The law ought to defend young girls' virtue at least as sternly as it defends their property, alike from strangers and from base kinsfolk. If a man run away with an heiress, a ward of Chancery, though each may love the other and desire marriage, the man is imprisoned for contempt of Court, and cannot escape punishment by claiming to marry the lady, nor yet by pleading that he never promised to marry her. So tender is English law of the rich, and so reckless of the daughters of the poor. It surely is time to change all this fundamentally.

The seducer of a minor girl must not be allowed to plead against her own consent. She has no right to give consent: his act therefore has the nature of a RAPE. Nor, that he did not know her age: it was his duty to find out her age accurately. Nor thirdly, should the man be allowed to recriminate, by saying that the young woman had been previously unchaste. It is always easy to impute such a thing, and difficult or odious to refute it; and the dread of such a defence holds back women and their near kin from having recourse to law. If indeed the man assert that the girl makes a trade of herself, and he can prove it, he is no Seducer. Anything short of this is irrelevant, and the judge ought to forbid the man's counsel from aspersing her. If she have fallen once, that does not justify the culprit in seducing her to a second offence. While she makes effort to conceal her shame, the law must presume that she is trying to keep in an honourable course. To entice her out of it, is Seduction.

A man who cajoles a silly person to give away a valuable estate, or sign his name to a large cheque, for no substantial consideration, will not be allowed by the law to keep his prize. He must have known that he was cheating, not fairly buying. The same is true of the seducer, who robs a woman of that which he cannot replace. At present, *not seduction at all*, but only breach of promise of marriage, is an offence. The law throws on the

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woman the burden of *proving* the promise, but a cunning man can generally secure that no legal proof of this shall be possible. Also by promising that he will yet marry her, provided that she hold her peace, or by otherwise playing on her hopes or her love, he wholly evades punishment, and generally even public knowledge. It is more important that those near of kin than the girl herself should have a right of action against the seducer. If, before long, we get a Public Prosecutor, it were better still, that on affidavit of one or more of the girl's kinsfolk, and with necessary precautions against fraud, it should be his duty to bring the offender to justice, who, if convicted, should be pronounced a felon. The mere enactment of such a law, even before any prosecution took place under it, would strike terror into profligates of the upper classes, and save numbers of weak-minded inexperienced girls, who are dazzled by flatteries, attentions, finery, and the hope of raising themselves in society; girls who cannot be saved by any public instruction, and have no wise teacher at home. When full majority is attained, it seems necessary to leave a woman who can give herself away in marriage to define at her own will what she chooses to call marriage. But as soon as the seduction of those under age is severely punishable, a different sentiment will soon pervade society. *Public law is the great teacher of morals.* At the age of twenty-one a young woman is generally far wiser than at eighteen; and the infamy of seduction will be so much increased as to be a new protection to her.

It is needless here to define carefully what should be the seducer's punishment. If his act be pronounced *felony*, fathers will never wink at such transgression in sons. But it seems to be a sound principle, that one who offends from avarice, as a seducer's accomplice, should (besides other infliction) be heavily fined; while one who offends from animal passion should suffer in his body with public disgrace. A younger man, guilty of seducing a minor, should (in my opinion) receive stripes and be put to hard labour; stripes not so severe as to cause compassion for his suffering, but severe enough to mark the disgrace. But what is to be said of elder men thus guilty? I have been informed that it is well known to a London society formed for the protection of women, that men of fifty and sixty years are great corrupters of children aged fourteen or fifteen,—one after another, whom they entice by gifts of confectionery and other small trifles. This is firmly believed, but to get legal proof is most difficult, as the law now stands. Such execrable conduct seems to deserve

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hard labour for life. The older the man and the younger the girl, the fiercer ought punishment to be; especially when it is clear that marriage between them would be preposterous, and no love can have existed.

A grave question will have to be discussed, how to punish the seducer who is himself a married man; who therefore cannot offer to his victim the reparation, such as it is, of marriage. Guilt is piled upon guilt, in the not uncommon case of a married man corrupting his female servant. In these, as in other cases, mercy towards an innocent wife distracts the deliberations of justice. It suffices now to say, that human destiny and divine wisdom force each heart to bleed through the crime of one near and dear, and that the legislator must not be more tender over the wife of the seducing adulterer than over the wife of the poacher or swindler. But long deliberation and combined advice are needful for fixing penalties.

Another question will arise concerning tribunals. In every case of alleged seduction, it appears to me obvious that half of the jury ought to be *women*. But if the seducer confess his guilt and propose to marry the girl, this ought not of itself to quash law proceedings, but (as I think) the judge ought to summon and preside in a secret *family* tribunal or rather parliament, formed by him from kinsfolk on both sides, with free leave to all to speak in their turn. Two complications have to be considered. The kinsfolk may say, that one or both families disapproved the marriage, and that the pair have committed their offence, expressly in order to extort consent. Possibly in that case the judge ought to have discretion to inflict on the seducer some disagreeable corporal punishment, even though marriage follow. Next, the woman may have been so shocked at the man's baseness (of which no one else may know all that she knows), that she recoils with horror from the idea of being his partner for life. This would be extremely rare. A weak woman would seldom indeed show such spirit. But if she did, it implies peculiar malignity in him. Apparently his offer of marriage should go for nothing, and he should be punished as if he had not made it; especially if he may have made the offer from foreseeing that it would be refused. But all these matters also would need mature considerations. Once more, the girl ought never to be brought into public court, but her evidence, when needed, should be taken in private by the judge or his deputy.

There is another aggravated form of seduction, which calls for

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intense severity of punishment, namely, when the criminal has gained his end by administering a potion to his victim. With our omnipresent drinkshops, this is in many towns the commonest way in which vile plebeians corrupt girls of their own order. If the public sale of intoxicating drinks be ever so decidedly put down, it might not wholly extinguish this atrocity. A change in drinking habits would greatly aid; yet, since opiates of one sort or other may always be had, the crime will remain possible. *Whatever the woman's age*, the man should be liable to the full severity of law, if it be ostensible that he induced her to drink as an aid to his plot against her virtue. The fatal cup equalizes all ages, so that the woman of thirty becomes as defenceless as the child of fourteen. Perhaps the crime should be simply called rape.

What is now the legal punishment of being *accessory* to seduction, I am not aware; but when gain is its object, not only must the offence be criminal, but the pecuniary penalty needs to be of the severest kind. For the ordinary trade of the brothel-keeper, heavy fines are evidently the appropriate punishment; but they must increase rapidly on every conviction, so as to become ruinous. Moreover, stringent precautions are needed, that the fines be not paid by rich customers. A philanthropic lady, who struggles to rescue fallen women, and hereby sees and knows much which is behind the scenes, writes to me: "The well-to-do brothels here are chiefly maintained by rich merchants *of middle and venerable ages*. One was about to be closed, but was endowed speedily by a rich man to keep it going." Evidently to make any pecuniary gift, beyond what may be called common charity, for no substantial return, to one who has been fined for brothel-keeping, or to pay the fine, should be made felony, punishable with prison and hard labour. Whether any but a plebeian Parliament, or a Parliament in which *women* hold numerous seats, will ever exact penalties of adequate severity, many will doubt. But now that these horrible movements towards contented national impurity force chaste and modest persons—and not least those women who are our chief pride—to look at the enormous evil with steady eyes, I cannot yet believe that the existing Parliament will fail to admit sound *principle*, however timidly and weakly they may apply it.

II. The second great measure—needful for many other reasons, but equally needful against the Great Social Evil—is, the suppression of drinkshops; of tipple houses, as our old law calls

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them. I have already observed, that they are dens of seduction. A woman is first poisoned, then ruined while the potion bedims her understanding and impairs her self-control. Chaste feeling is benumbed before the victim herself is at all aware. Next, the unhappy harlots often avow, that except under the stupor of gin, they could not ply their hateful trade. We may try to imagine what sort of men come into their bosom; with what foulness of breath, with what coarse sensuality. It is shocking to suggest such things; but one may well believe that to a *sober* harlot many a tipsy smoker is inexpressibly disgusting. Who can be accosted in the streets by young girls with tender and refined features, and not be ready to sink into the earth at our national iniquity? Who can avoid the intense conviction, that thousands of poor girls loathe their trade, and can only carry it on at all by benumbing their perceptions? These are sufficient reasons for striking at the tipple shops; but in the cause of young men hitherto outwardly chaste, the argument reaches wider,—to a general abstinence from intoxicating drink in their private homes; a topic which will come up under my next head. Here I will only add, that the drinkshops are fatal chiefly by debauching *young people under age*. Careful parents cannot save boys above fifteen from their influences. Few probably who attain their majority without *a taste* for such liquor are afterwards corrupted by it. The shops hinder parents from duly shielding and training their children, which suffices to make them indefensible.

It is not to my immediate argument, yet it is of prime importance, that these drinkshops are from day to day the prolific sources of murderous assaults and violent deaths. The liquor is strictly a narcotic poison. Chemists class alcohol with opium. Physiologists pronounce it to spoil the gastric juice, harden food in the stomach, mar the purity of the blood, chill the body and lower vitality. To be tender over the trade in alcoholic drinking, is more unreasonable than to be tender over a trade in opium-eating; for opium does not produce crime, immodesty, impurity, and pestilence.

III. Further, several of our public institutions need to be fundamentally reorganized, primarily our churches. Both sexes in common need frank instruction in detail concerning matters to them of prime importance; instruction which they never get. These institutions pretend to teach Morals, but they do not. They are chiefly concerned with lofty doctrines, which, whatever the value to older hearers, shoot over young people's heads. The

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Churches, by their pretensions and by the inordinate reverence paid to them, so preoccupy the field, that other Moral Teachers would have no chance of an audience. Nearly all women who are seduced by men are seduced at a tender age, at which they cannot have the faintest prospect of the dreadful future which awaits them. It must be imputed (I suppose) to the faithful warnings given by Catholic priests, that Irish Catholic women are so chaste: let this be some set-off against our Protestant horror of the Confessional. Nevertheless, the experience of at least all Latin Europe, besides the natural instinct of every pure heart, tells us that *Priestesses*, not Priests, ought to instruct girls as to morality of the sex, and the cruel results of its violation. Let boys be taught under a man, girls under a woman,—perhaps a matron, so as to secure that on this subject, which is of all the most vital to young people, they shall not have to learn from their own bitter experience. It is now wholly omitted. Girls are not even warned what an odious hypocrisy every mercenary marriage is liable to become; how great is the evil and danger of marriage without love, and how unnatural is the legal relation thus superimposed. Much less are they taught not to be lenient to such men as have debased themselves before marriage, nor are they urged to exact from men a high standard of chastity. Much more might be hinted here; but *Priestesses* will find plenty to say, without hints from men. A clergyman also will be able to speak more simply and instructively to youths in the absence of women; and spiritual instruction will be only the more effective, when built upon a broad foundation of faithful and detailed moral teaching.

There is one important matter which young men need especially to be taught, viz., that at no time of life is any man — married or unmarried — exempt from the essential duty of curbing animal impulses. In the struggles of a young man against unchaste surroundings and raw passions, nothing so paralyzes his force of Will as to be told that some men have from God the gift of continence, and *others have it not*, and that to the latter class marriage is the rightful *vent*. This doctrine is disastrously prominent in the Anglican marriage service, and is borrowed from St Paul. But that great and deep-hearted apostle was unmarried, and without personal experience. He writes, not as one revealing supernatural communications, but as imparting his best wisdom; indeed, desiring charitably to *apologize* for those who had less self-control than himself.

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It is not the less certain that the lewd are encouraged in their lewdness, and the weak struggler is made weaker still, by each saying to himself, or, indeed, one publishing to the other: "Ah! you see I have no *gift* of continence." The malady is in the mind—in the base imagination; and one condition of cure is, that the false doctrine be cast out. Marriage is not (what I once heard a Catholic Professor bitterly declare was *Protestant* doctrine) "a legal mode of giving loose rein to the lust of the flesh." A married man is bound sternly to act the celibate during long months, and in some cases totally, through the weak health of his wife. (Not but that even here our law most cruelly treats a wife, who is stript of that self-defence against a brutal sensual husband, which every female dog and cat retains and exercises.) Notoriously a *moderated* polygamy brings no physical evil to any of the parties: it follows that monogamy cannot exhaust a man's physical passion. It is also notorious that the *unbridled* polygamy of not a few Orientals (which aims to *satiate* animal desire) enervates both mind and body. A general and just inference is, that a firm self-restraint is necessary and salutary for every man. We know that a ship-crew of young men, chiefly under the age of twenty-five, and picked for masculine vigour, may go to the Arctic regions for a year or two, and return in splendid condition without seeing a woman's face. It is therefore a pernicious falsehood that violation of woman's chastity can be needed for man's health.

I too well know that some physicians will flatly contradict me. . . . . If a plausible physician tell me that there are *exceptional* men of *abnormal* passions who do (in plain words) "really need" that a woman shall be sacrificed to them, I wish to know whether the other sex has never a like excuse, and whether he ever recommends a woman to be unchaste. Men expect such abnormal women to die in preference. How loose would young females become, if they drank wine as freely as do these "exceptional" males, and then open their ears to such doctrine as is poured in on young men! A woman who hesitates (it is said) is lost. Young men also need to spurn with horror such doctrines. It can be confuted; but for the young to abhor is better than to confute. Moreover, a young woman by unchastity sacrifices herself; a young man injures another more than himself, which is much worse. But as regards this medical lore, it is permissible to ask whence the physicians get it? I frankly

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say that I regard such "authorities" as *dupes* of their own patients; who, it may be conjectured, if "exceptional and abnormal," are generally made so by alcoholic drink, and to cover the offences which they have to confess, throw upon physical causes the weakness or depravity of their will.

The ordinary preachings of the clergy, I believe, elaborately miss the mark. One illustration may perhaps suffice for many. In a certain Oxford college the authorities were distressed to believe that immoralities had crept in, and the preacher in the college chapel determined to speak faithfully and plainly. He took for his text the seventh commandment. The larger part of his discourse was against adultery. He then explained that the Hebrew was not limited so much as this English term, but it included other fleshly sins, especially seduction of women, on the wickedness of which he further dilated. He concluded by touching in the most bashful way on a word, which (apparently) he dared to take into his lips only by quoting a text from St Paul; I mean, the ugly * word Fornication, and earnestly implored his hearers to remember that they were called to be saints, and were dedicated to God from their baptism; that it behoved them to be soldiers and servants of Christ; that it was an awful thing to pollute the temples of the Holy Spirit, and more to this effect—without one hint that the unchastity of man is an inevitable and frightful *cruelty to women*.

I heard free comments upon this from young gentlemen who were on good terms with their own consciences. Adultery and Seduction, they avowed, were utter scoundrelism. It was needless to say a word more about them. *At least* (said one) if a gentleman *did* seduce a poor girl, at anyrate he ought not to abandon her, but to make her an allowance, to look after her now and then; to maintain her child, if he had one by her; in short, he must honourably take the consequences of his own act. Neverthless, on the whole, they did not approve of seduction. A man could not exactly put the woman back where she had been. It was really a shame to spoil a girl's after-chances. But as to Fornication, that was quite another thing. A man found a woman already spoiled; he did not do her any harm, poor creature! As to the talk about being saints, the preacher must know that very few people are saints. Many of the best and most honourable men are not. In fact, many of them are, not a

* It strictly means, Frequenting of *Vaults*.

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little, *better* than sanctimonious persons; and it was want of good sense not to know that they (the young men) did not make any such profession, though they were forced to go to chapel.

On this occasion the preacher had the disadvantage of being unmarried and on the youthful side of manhood, but he had the advantage of speaking in the entire absence of women. If, instead of directing the young men's eyes into books, he had turned them to the real facts of the world, they were not so hard-hearted or dead of sentiment as to be proof against pointed words. They were quite able to understand, that if a woman were buried alive by each soldier of an army flinging one handful of dust on her while she lay tied on a plank, no soldier could free himself from guilt by saying, It was not my handful that suffocated her. The collective act of murder lies upon every accomplice. So is it with the wretched harlot; nor could her pernicious trade exist or be dreamed of, if men were chaste; and to her it is a loathsome misery. Would young men with a spark of good feeling, if they realized this, if this were pressed upon their conscience, take the matter so gaily? But precisely these cardinal points are omitted in church routine. If, instead of the Seventh Commandment, the preacher had taken as a text from Sir James Mackintosh, "A licentious age is parent of a cruel age," he might have hit their consciences harder. And as regards personal considerations, he might have asked, whether they make up their minds to live all their lives with harlots; whether even now they could bear mother or sister to know their unchastity; whether a man does not become a hypocrite, even a liar, inwardly humiliated and self-despising, timid and anxious, who has always a dread lest the women whom he respects should learn his secret; whether, if hereafter he seek a lady as his life-companion, when his bride clung to his bosom, he would not wish it to be from fervent self-abandoning love; whether he would not be inexpressibly shocked to learn that she had no love for him at all, and was only seeking for a fleshly gratification; whether *she* would not, as certainly, be disgusted to know, that this was exactly the thing which he had habitually and deliberately done himself; whether it is just in a man to expect in a wife an antenuptial chastity, if he do not come chaste to her; whether he must not condemn himself as self-degraded by that which he would regard as self-degradation in her. Enough of this. Most young men would shudder if such topics were pressed home. But alas! things transcendental are preached to those who have not climbed up the first stair.

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To go back to a former point: the effect of happy marriage is often hurtfully mistaken by young men. A true love marriage purifies the debased imagination; that is the first gain. It teaches, practically, how empty is carnal, how solid is spiritual delight. It gives to the man, not only one wife, but a hundred frank-hearted and pleasant sisters. If young men knew what is the constant joy of a simple loving wife, they would not be such fools as to defer or sacrifice it for frivolous luxury, much less for hired embraces.

To fortify young women, more is wanted than *moral* instruction. They need to gain such *industrial* knowledge or skill as will fetch a price in the market. They must not be driven to the pit of ruin by destitution threatening them. We must not endure an unjust depreciation of work, merely because done by female hands, nor their exclusion from business for which they have aptitude. The Society which struggles to find work for women needs and deserves help a hundredfold. It is matter of national concern.

To fortify chastity in young men, the first point is not to break down that modesty and sensitiveness, which they naturally have in common with girls. I am firmly convinced that many things in the School Classics perniciously inflame passion in boys and young men; so do many approved English poems, plays, sculptures, and paintings. All such things are a great cruelty to a boy who struggles to keep his imagination undefiled. Let us not hear the reply: "To the pure all things are pure;" "a nice man is a man with nasty ideas;" nor other such folly as anonymous writers pour forth on those whom they call *prudes*. The glaring fact is, that *we are not pure*. With eight thousand harlots in London alone, what utter nonsense is such talk! It is clear that many of us are early and profoundly corrupted: no one can tell how small a spark may cause explosion. And as a reclaimed drunkard cannot safely take even a sip of the once fatal liquor, so who of us can tell how dangerous to him who has hardly escaped the pollution of the world are even reminiscences of his ancient plague. Will you scold at him as a prude, because, cherishing inward purity, remembering his past with hatred, he chastens his eyes and his ears, and dreads every voluptuous suggestion? And has any man,—artist or poet,—in an apartment full of straw and gunpowder, a *right* to scatter sparks abroad? And if we start with children hitherto innocent, why do we treat boys so differently from girls? No one imagines that a girl will be made

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purer by plunging through impure reading or anything that excites voluptuous thought: how then can any person of common sense think that this method is desirable for boys, who are so much more inflammable? Manifestly the fact is, that people desire chastity in their daughters *greatly*, and in their sons *very feebly;* that is the true key to the whole. Boys are to be brave, and if they are (what is gently called) irregular, it does not much matter! But when this "irregularity" is sport to the one sex at the cost of death to the other, the nation that acquiesces in such execrable injustice cannot evade the judgments of God. We may read them in the decay of empires.

Nevertheless, even when the frightful ordeal of school has deeply polluted a young man's mind, yet while he retains tenderness and refinement and outward modesty, it is impossible for him not to start with horror from the touch of an immodest woman. It is no attraction to him, but a repulsion. There is something simply odious in the idea of bestowing fond kisses, the symbol and pledge of warm and faithful love, on one who not only is not loved, but to-morrow is cast away; one whom we may deeply pity, and yet must loathe, while she touts for custom. Why do I refer to this? Because I cannot but believe, that scarcely any young man hitherto outwardly pure (whatever his inward corruption through a calamitous history) could so degrade himself as to rush into a harlot's embrace, unless he had first taken off the edge of his good sense, his delicacy and his self-control, by certain glasses of wine or other intoxicating drink. *Primâ facie*, the same thing is to be believed concerning soldiers and sailors. To stop the bar and the tap might almost in itself suffice to save for the Government the health of the Two Services, and spare to the nation the intolerable humiliation and misery of this ill-omened Contagious Diseases Act. Orgies of impurity to young men at Oxford in my undergraduate days could only go on as sequel of a wine party. Wine does certainly precipitate elder men into talk of which they would be thoroughly ashamed in their normal state—a phenomenon which reveals how easily it may disarm young men of their usual delicacy. In order to arrest debasing vice, most cruel to women, ruinous to family life, to industry, to public health, and to the nobler virtues, very severe restrictions on *strong drink*, from influences from custom and from law, are needed. So far as minors are concerned, perhaps no measure of prohibition can be too strong. It is the first thing needed, it is absolutely needed; and the effect on public morality and public health will be prodigious.

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IV. Another institution which needs fundamental reform in the cause of public purity and modesty, is the treatment of female maladies by male surgeons and physicians. A poor fallen woman told her story frankly to a lady who told me of it. The base man who first seduced and abandoned her communicated to her a vile disease, for which she went into hospital. There she was tended by a young surgeon, who, under plea of medical necessity, took so many liberties with her, as to gain an overpowering familiarity, and corrupted her a second time. After this she was unable to recover herself, and fell into the rank and file of that most pitiable female army. The simple tale seems to lift up a curtain and disclose unimagined abuses. I have seen in the handwriting of a pure-hearted Catholic dignitary, the statement that Catholic priests often hear in the confessional the distress of married women, who do not know how to behave towards surgeons who attend them as married wives and indulge in "impure handling." To be told of such things even in isolated cases is enough to make one shudder at existing routine. Allow that old men and married men,—though age, which naturally destroys bashfulness, is not always favourable to that modesty to which at every age man is as much bound as women,—of which, moreover, the destruction is more hateful in the old man and less excusable; yet, allowing that elder men must *sometimes* be called in as a last resort, nevertheless in a well-ordered community this would be exceptional, namely, when severe suffering overpowers female bashfulness and purifies the physician's heart by compassion. It is a belief too general to be safely slighted, that young medical students are more licentious than other young men; and an ancient commonplace may here apply: "Those are more likely to commit crime, who can more easily hide their guilt." He who has medical knowledge thinks, that if by trespass he contract infection, he can heal himself in privacy: another youth would have to reveal it to a physician. The young surgeon, with more to inflame him, has less to frighten him. Surgeons are men, and their chastity is not always firm. It is difficult to imagine how any medical man can retain delicacy, who has to go through the ordeal of introspecting a long string of women in the shortest possible time; even if we have not attained the almost miraculous speed of the French surgeons, whom the women seem to obey more promptly than chasseurs would manœuvre at the word of command. If all England be scourged by the Bill of Extension, we might well apprehend that the whole tribe of surgeons would

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be hardened into immodesty with the women. But surely the whole principle is a fundamental error. We need to return to the sentiment of all antiquity and of all Eastern peoples, which also was that of all Europe. But when modern science arose, men kept it to themselves, and thereby expelled women from their natural rightful place of physicians and surgeons to women. Let the study of female disease and female anatomy be withheld from young men in the public hospitals and medical schools, at least as soon as enough women have been made competent. A few years will suffice, if there is but force of will in the *women* of the nation. The £30,000 already spent on one hospital in Devonport, erected for the base object of supplying the sailors with "safe and sound" companions, would probably have sufficed to raise up the female practitioners needful for their own sex. Not only would they minister in childbirth and in general female illnesses (indeed it is attested, that wholly uneducated midwives have better success with women in childbirth than the most accomplished male physicians), but they would be invaluable in rescuing the unhappy harlots. To women-physicians the poor lost ones would come willingly, wherever it was needed. No compulsion would be thought of, no agonizing shame would be incurred, none of them would by it be hardened in depravity. Priestesses and Female Surgeons combined would carry out a truly great work. Women are not only the natural purifiers of men: they are also the natural rescuers of their own sex trodden down, to whom no good man can come very near. They would kindly or pitifully withdraw the harlot from her dreadful course, would cherish her modesty, aid her to conceal her shame, throw a veil over the past, and instead of branding "Prostitute" on her forehead, would strive to mix her in the crowd of unspotted women. Many of those uncounted thousands might be thus rescued by the tender intervention of ministering angels, if Parliament would but assign proper funds, so as to equip women for the task. Do you set male surgeons to a compulsory introspection of these pitiable outcasts? Oh, how *can* men be so cruel on the one hand, or so unconscious of cruelty on the other? It is Women's work: Men have no business to touch it, or to study it. Greek, Turk, and Indian cry out shame upon them.

V. One more topic must be touched: the imperial ambition out of which these foul practices and tyrannical law have arisen. A standing army with barrack life, celibate enforcement, and martial law in time of peace, is too immoral and too despotic an institu-

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tion for a wise people to endure. Mr John Stuart Mill, during his brilliant but unhappily short Parliamentary career, excellently laid down, that our arguments ought to be *strong for defence* and *weak for offence*. Such a principle does not suit a pugnacious minister, and will be resisted to the utmost by routine, by military and naval officers, and by very powerful secret influence. The force which is most offensive to foreigners is our immense war fleet. They remember our bombardment of Copenhagen with out even prior warning and declaration of war. To defend our own arsenals, such heavily armed hulks or "monitors" as cannot bear rough seas are efficient beyond all other device, and never can alarm foreign countries. Our fleet on the coast of West Africa was proved by Sir Fowell Buxton more than thirty years ago to make the slave trade more cruel to negroes without checking it. All reason for that fleet has come to an end. Our Mediterranean fleet is equally an anachronism. To suppress piracy both in that sea and on the ocean, we need a *joint action* of all maritime powers, of which each should contribute its quota of ships to an International Board. The Board and its ships would in fact be extranational and essentially neutral in every possible war. Russia, Prussia, Austria, Italy, would rejoice to be recognized as Maritime. We have no right whatever to a fleet in the Mediterranean except for common benefit. We shall finally get rid of that hatred and suspicion, which from nearly all nations now rest upon us because of the greatness of our marine and our arrogance in the past. By such co-operation on the sea, we might plant a germ of *European Federation* in a Mediterranean Board. We might also provide a High Tribunal for international arbitration. At any rate we should immensely lessen, on the one hand, the expense of our fleet, on the other, the number of those who follow the *unnatural* life of sailors.

To reconcile moral with commercial and imperial interests in the case of sailors, is to me the hardest part of my topic. I do not pretend to solve the problem. I merely point at it, and insist that the smaller our fleets, the smaller the evils. Also, the greater our fleets, and the longer the men have been abroad, so much the greater is the cruelty of allowing sailors, as soon as they land, to be inveigled into taverns where they squander in drink and in vice the earnings of months or years, carrying also back with them abroad that tendency to drunkenness and frays, which makes our nation infamous, and has even involved us in war.

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But for a standing army there is no just necessity, no valid reason. Martial law in time of peace, especially *such* martial law as exists, is a gratuitous mischief, as immoral in its results as it is tyrannical. *It is only enacted for one year*; such is the traditional and just jealousy of Parliament. The fact is a solemn annual protest that this is not an accepted system. The ancient institutions of England down to the Revolution did not include a standing army, but were much more like to those of Switzerland, which enable a State very small in population and comparatively poor to keep a formidable defence against invasion from even Great Powers; and this at a minimum of cost, while eminently sustaining patriotic feeling. We want no other army but such a skeleton as may be a normal school to the nation to organize and drill us, if real occasion require. The only thing needed to be taught beforehand and taught to all, *because the art cannot be acquired in a moment*, is the use of the rifle. The less we waste on armaments in peace, the stronger we are in war. Old armaments are a positive weakness. The recent history of the American Civil War, South as well as North, vividly teaches how new inventions supersede old. Contrast the English Admiralty. . . . To keep up in peace armaments adequate for war, is an insanity which we ought to leave to despotic powers.

But it is said, we are then to be defenceless! No such thing. England, under Henry VIII., was not defenceless; nor is Switzerland now. Every young man in the kingdom, within certain ages, should be *compelled* to learn the use of the rifle, or whatever is the most effective arm. A compulsion which is universal, would not be felt as any hardship. It would not have any immoral tendencies, as it has when soldiers are merely the riff-raff and scum of society. It would not encourage frivolity or a taste for war; moreover, young men naturally like to be taught a skill of this kind. If ability to shoot pre-exist, an army greater than we ever yet had could be raised at the shortest notice, if home defence were really needed, *without compulsion and conscription*. We want no regimenting, no "Volunteers" (an institution on several grounds evil), no military movements, no uniforms, no martial law, no martinet tyrannies; but only a temporary dictatorship, limited to secure the community against dangerous recklessness in the use of weapons. As soon as it is known abroad that every Englishman can use the rifle, French colonels will for ever cease to bluster about invasion. Every European Cabinet knows perfectly what England, once taught to use arms,

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could and would do, if invaded. No defence of the coast by a fleet *offensive* to foreigners will be needful. We shall have no more of disgraceful panics, such as that of Russian invasion in 1838, and of French invasion both in 1852 and in the close of 1859. [But the latter was perhaps got up to please Lord Palmerston, and thus set afloat the new Volunteer movement.] Parliamentary hatred of standing armies became intense, after Charles I. had attempted to usurp a despotism, but failed for want of a standing army, and Cromwell succeeded in the very same attempt by means of his Ironsides. This jealousy lived in Parliament into the reign of George II.: perhaps it perished in the blazing military successes of the older Pitt's administration. Happily at last no statesmen now dream of entering European conflicts. Russia is no longer dangerous to general freedom. Spain, Italy, Hungary, Germany, can now all take care of themselves. In our conduct to Denmark and Poland, the nation and Parliament jointly have uttered the verdict, that we are not mighty enough to rescue little States from great ones: whatever may be our sympathies and judgments, it is no task for us. We ought now to be able to go back, in military matters, to *old English* principles as under the Tudors. Let a powerful minister announce this, and, I believe, a tumult of applause will ring through all three kingdoms.

Undoubtedly there is a huge mountain of difficulty in the way in respect to India;—to say nothing of Ireland. . . . Very few of our middle classes know the facts concerning India and Indian policy, perhaps not many even of the upper classes; but when once it is clearly understood that the standing army is kept up to enable us to govern India despotically, plain men will say plainly: "England is not to be sacrificed for the maintenance of an Indian empire: our brethren, our sons, are not to rot by thousands in time of peace." The moral hatreds of a people are not ineffective; and even with men who measure justice and morality by what they call Expediency, the intense difficulty of ruling races which hate your rule will become undeniable. The loyalty of India must be bought at any price.

For some years we have been running hard in the direction of the French army system. It cannot possibly be complete without conscription, which (in my belief) never will be endured as an ordinary home institution. Meanwhile, tottering steps in the French direction lead us into French immorality; and now a bold hand has suddenly opened to us a clear vista of the future,—

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French licensed Prostitution, French social despotism, women turned into shameless animals, and marriage ties dissolving. Do the ruling classes suppose that the nation is as yet willing to renounce the sanctities of family life, to replace wives by "Sound Harlots," or wholly to strip off modesty and legal rights from the women who have been ruined by the wicked heartlessness of men? To attain a healthful moral state much *general* improvement is wanted, which is not specific to the present topic. Not so the enforced celibacy of a hundred thousand men in the prime of life; I mean, in the army and navy. Is not this as bad as a celibate clergy? But the cure cannot be had by any other method than the natural one of trusting the public defence to the brave hands and hearts of the entire people. . . .

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WHAT IS PROSTITUTION?

A Leaflet, of Jan. 1871 *perhaps.*

PARLIAMENT in 1866 refused to make Prostitution a legal offence, yet proceeded to enact measures which virtually made prostitutes, or women accused of prostitution, outlaws; measures wholly depriving them of the rights accounted vital for men accused of crime. This despotic enactment is enforced by the police, who interpret the word "prostitute" for themselves, uncontrolled by judges or magistrates, or even by military officers.

There are four classes of women to whom the police apply this very coarse word: *first*, to the mistresses of the soldiers, however faithful each may be to one man; *secondly*, to young women who have an honest trade, but either under stress of want, or from vanity and the seduction of a false lover, have deviated, whether once or more than once, from entire chastity; *thirdly*, to women whose right appellation is either "courtezan" or "harlot;" that is, such women as have no other trade but of their persons, yet try to retain power over themselves, and make selection as to visitors. Such women live in a house or apartment hired by themselves; prefer to be sought by men, rather than to seek them; study privacy, and so far as possible, or as long as possible, confine their intimacy to one man. In this class there must be vast diversity; a few resting so long on one man's purse, as to be undistinguishable from "mistresses;" others so ill-remunerated, as scarcely to escape the necessity of promiscuous *plying in the street.* To this *fourth* class alone does the appellation prostitute rightly belong, either by etymology, or by ordinary use. It means a woman who *stands in public for sale.* It essentially implies, that she accepts *any* buyer, and in actual use is understood to mean that she frequents *public* places, as the street, the theatres, or certain coffee-houses, drink shops, or dancing rooms, where she can offer herself indiscriminately. The word is the coarsest appellation current for designating a degraded woman.

It is a terrible fact, that a vast number, perhaps a majority, of those to whom this horrid word really applies, are either girls, or were brought into the trade while girls, by no fault of their own;

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and being unacquainted with any means of earning their livelihood, are at the mercy of the brothel-keeper, who houses, feeds, and clothes them, and can turn them half naked into the street, without rebuke from the law. Even so, they struggle out of the trade in great numbers, when they attain womanly age and greater knowledge of the world. Surely they deserve our deepest pity, rather than our contempt. All legal severity ought to fall on the base men and women who make gain of selling them, and in many cases bought them when children of wicked parents or kinsfolk. The proper description of this fourth class is, in numerous cases, *slave-girls*. Righteous law, such as we were used to expect from an English Parliament, would indignantly rescue them from the slave-holder, instead of putting its officers into alliance with him, and winking at his unholy and illegal trade.

On the contrary, Parliament has enacted, that while no *male* citizen can fall under martial law without his own solemn consent, *female* citizens (women or minor girls) are brought under martial law without their own consent, upon the affidavit of a police inspector, who accuses them of that which is *no legal offence* (the being a prostitute), which accusation he is *not* required to substantiate by *proof*; and if the thing come before a magistrate, the magistrate is bound (as a magistrate *professed* after hearing the arguments of a Government advocate) to accept the policeman's affidavit that he believes her to be a prostitute, and further is *bound to summon* her, without judging for himself whether it is reasonable and true. For *men* the Mutiny Act is renewed every year, and, unless renewed, falls to the ground: for *women* a lifelong slavery is enacted. This slavery subjects women to be imprisoned in hospitals, to be poisoned by mercury and caustics, against their will, and to be ruined irreparably by shameful operations, if a surgeon is stupid or his instrument too large. They may declare that he tortures them, but the law rules that that is no concern of theirs, and their protest goes for nothing. The surgeon has only to tell superior authorities that the women are great liars, and that he certainly does not hurt them,—and all is smoothly received. But the public and private report is, that women who go into hospital healthy, come out with ruined health. The law gives the surgeon a pecuniary *interest* in filling the hospitals, and a *power* to force healthy women into them, if only a policeman has fixed the word prostitute on them. Hence faithful mistresses of soldiers, when pregnant or after childbirth, are legally liable to be violated, nay, and are violated, by the

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steel tube of the surgeon, *not* because they have any illness, *not* because the shameful process is imagined to be remedial, *but* in order to ascertain whether they are in a fit condition for promiscuous intercourse ! Did ever the wickedest or stupidest of Pagan barbarians make such an enactment ?

These execrable laws a Cabinet which calls itself LIBERAL has in hot haste extended to the Cape of Good Hope, and even to India by a high-handed act of power, as if anxious to excite loathing against the English name, and secure bitter retribution : and now forsooth, abdicating its own responsibility,—as if destitute of common judgment—it appoints a Royal Commission to inquire into *details*, when the *principles* are obviously an outrage on English freedom and right, and primary morality. We denounce the idea of martial law for women under any circumstances whatever. To discard a civil judge and jury is cardinal to these laws, which even on that account only, must be simply repealed.

According to the interpretation of the police, Miss Knollis, mistress to the Duke of Kent, the Queen's father, and mother of Francis Knollis, whom the Duke publicly recognized as his son, was a prostitute, and would have been liable to medical violation. The police pronounce *married* women to be prostitutes, in which case the husband cannot save his wife from these atrocities. Their misinterpretation of the word has been sanctioned by surgeons and magistrates, and has passed without censure by Committees of Parliament, by the War Office and Admiralty, finally by THE QUEEN'S MINISTRY. It probably would not be approved by the Judges, but the law has withdrawn from them all cognizance, and accounts all women over vast areas of the country to be a *Military Population !* Women who have the comparative merit of seeking privacy and making selections, are persecuted expressly because their trade is *clandestine*, are ferreted out by spies, and are in fact outlawed. A military surgeon is now their sufficient *judge* and *jury*, and may at pleasure make himself their *executioner*, claiming their living carcase for his anatomy and for his arbitrary drugging, exactly as though it were dead. If they resist, they are punishable by solitary imprisonment, with or without hard labour. Thus, the women who try to cover their shame and retain a hope of emerging from this base life, are made criminal for having some modesty, and are pressed down into the deepest depths, into a prostitution more shameless than anything hitherto known in England.

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All this mass of hideous impurity, lawlessness, and military tyranny has been copied from the police practice of Paris, where it never received legislative sanction; a city to which, in consequence, our medical students go to see venereal disease in its worst intensity and widest diffusion; a city whose moral and physical condition ought to have warned men of common sense against its characteristic practices. Will an English Parliament continue to sanction this unbearable system, now that awful events display the political corruption and national ruin that the profligacy of *men* induces? If it does, let it prepare for a new Indian war, and for the total overthrow of aristocratic rule.

1889.—It continued at home till 1888, after which the Queen's Ministry, in spite of Parliament, do not as yet show any alacrity to suppress the system in India. Stealthily enacted at midnight by fraud, and for years not understood by many M.P.'s, this base and pernicious system was forcibly kept on our necks for twenty-two years, as if to desecrate English Law. Nor can we have any security that Law shall be just, while midnight legislation is permitted.

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GUIDANCE OR ANARCHY?

From "Fraser's Magazine," July 1870.

COPIOUS as is our language, it is not quite equal to our ever-developing political thought. Self-government was once a word of the moral vocabulary, much the same as self-control. We now use the phrase—Local Self-Government, but find it rather awkward. The Germans and French supplant it by the Greek phrase Autonomy. Not that in such self-government we imply any real sovereignty, or independence of a superior and central authority, which we value as much as ever. To unite the claims of local and central power, is nearly the greatest problem for modern times. We were about to write—for modern *statesmen;* but were checked by remembering the rather clumsy title which we have written above: for there are many who gravely doubt whether statesmen ought to initiate anything. Since Talleyrand, we have become accustomed to the formula of constitutionalism, "The king reigns, but governs not:" in which was implied, or thought to be implied, that his ministry governs. Nevertheless, fact seems to say, that this is a mistake. A ministry executes either the bidding of its party, the bidding of a parliamentary majority, or the bidding of public opinion—indicated partly by public meetings, partly by the newspapers. It is not Radicals only who think that *rule* ought to come from below; Whigs and Tories also have avowed that, until the popular breeze rises, ministers can do nothing but routine in home business or in momentous foreign affairs. They may move freely enough—or might not long back—in colonial or Indian affairs, or in dealings with minor potentates; but *that* "governing," that guidance, which might have seemed peculiarly demanded from them, is in some sense slipping out of their hands. The tendency of this development which confounds our nomenclature, and perhaps our intellects, deserves to be more closely considered.

Where instinct is powerful, there is something to be said for Anarchy. Do not the coral insects build noble reefs, able to

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resist the waves of the Pacific? A Stephenson or a Hawkshaw has hard work to rival them; though they work blindly, under no other governor than the *divinæ particula auræ* within. Engineers who seek to attain equal stability, find their account in abandoning the elements to their own random action. A breakwater is made by flinging huge stones into the sea, and leaving the waves to riot upon them. "The sea best knows where to put them," is the workman's formula. A stiff gale of wind packs them well: a tempest wedges them so firmly, that little is to be afterwards feared. Wars and tumults, which are the storms of nations, do a like rude work, and often make solid foundations, it cannot be denied. But to be tossed about like stones by the wave, is not to be coveted by human beings. We are all agreed, that however great the ultimate benefit of some wars, which decide mightily problems otherwise untractable, they are an immediate enormous calamity, and often leave behind them wounds very slow to heal. Much the same is to be said of that treatment of national questions which comes entirely *from below*.

The natural history of them is generally as follows:—Men in office proceed as nearly in routine as circumstances permit. Legislators vehemently avoid everything which can be called a "new principle," and work chiefly under the influence of powerful classes. It is no one's duty to look ahead, and one who does so can hardly get a hearing. Every minister has enough to do, while confining himself to the task to which he is, as it were, driven: indeed, the ministry collectively fears criticism from avowed and powerful opponents, and dreads to make new enemies. Hence of necessity the weaker part of the community is neglected, and evils accumulate. The weaker part is the larger part. Disorder and misery attain a deplorable extension, sometimes a dreadful virulence, before it becomes known to those in whose hands are the political remedies. By that time the evils have become social and moral as well as political: some therefore doubt whether any political remedy can avail, or is to the purpose. Also a strong measure being now needful, there is much timidity and many opposite interests: hence long delays, even after the evil is notorious. During this whole time, the unfortunate units of the nation are tossed about and ground up as stones by the waves; until—in some countries by insurrection, in others by mysterious conflagrations, in our own at present by a formidable increase of pauperism, in Ireland often by agrarian

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outrages—the executive authorities and the parliament, where there is a parliament, are forced into the conviction that "something must be done." Thus, prevention is not attempted, but only a tardy remedy which at best provides only for the future. How many hearts are broken by this course ? How many persons are miserably demoralized ?

It is certainly alarming to reflect how little the increase of knowledge and refinement, or the acceptance of a superior religion, saves great nations from the disorganizations and miseries which historically we know to work the decay and downfall of empires. Everywhere the course of things seems to be the growth of huge towns, with unknown masses of neglected population, while vast areas of country are ill-peopled or dispeopled. The rustics are lessened in numbers, and not improved in quality. Parks and pleasure-grounds increase, from which fruit-trees and crops are banished. *Platanus cœlebs evincit ulmos.* The rich become richer ; and if we may not say the poor poorer —for none are so poor as slaves ; yet we must add, pauperism becomes an institution, and crime a fixed mode of life as much as in days of open brigandage. When these phenomena appear, not in one nation of Christendom, but in all, nearly in proportion to the increase of wealth ; when we see in Republican New York what are the effects of letting things take their course, and believing that the chief business of the State is barely to secure that traffickers shall traffic and make gain ; there is abundant reason for desiring that men in power shall be able to look ahead.

Nor is it solely in what are called *old* countries that we find our grave deficiency ; a deficiency which puts us nearly on a par with ancient Romans or Carthaginians. How do matters stand in our colonies ? Englishmen, uprooted from their own habits and laws, settle in the neighbourhood of barbarous foreigners, who are at one moment friends or servants—and then generally despised—at another moment formidable thieves or enemies. No general principles are laid down beforehand how they are to be dealt with. Neither to the colonists, nor indeed to their governor, is it clear, whether the savages are regarded as a foreign state, with whom we are to deal as equals, outside of our own polity ; or, if not, what else and how else. If they are included within our rule, are they our fellow-citizens ? or what are their rights, and how are we to prosecute their wrongs ? How is land to be obtained by us ? If peaceably and righteously, it must be by purchase from those who have a right to sell. By what process do we

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ascertain in whom that right is vested? Where are the courts which are to judge between them and us in case of dispute? To whatever colony we turn, in all it is notorious that, except by William Penn, in Pennsylvania, none of these most necessary questions were answered beforehand. From the neglect inevitably arise quarrels, bloodfeuds, wars; and when these are once begun, neither side is likely thoroughly to know the other's case; and great calamities must be endured before both are willing to make a compromise which can stand. Our colonies are largely peopled by a refuse population, who ought to be under a sterner rule, yet in fact have far more freedom, than in the mother country. If our colonial governors are no longer appointed because they cannot decently be promoted at home, how long is it since we reformed that practice? Was it not even more mischievous before they had parliaments of their own than afterwards? Thus lawlessness and recklessness may seem to have been provided for, and all power of remedy is lost by the mother country. Nothing, it is to be feared, is now left in New Zealand or South Africa, but lingering and torturing war which shall at last settle essential principles. If in Australia and Van Diemen's Land the case for us is not so bad, it is simply because the savages were feebler and less dangerous: no praise to our wisdom or our morality. In Van Diemen's Land the native has vanished before us as the wolf in England.

Englishmen fondly believe that such evils are of necessity. They even dream of a "*law* of nature" enforcing it, and thus palliate their own deeds. But opposite facts forbid such exculpation. We alluded just now to William Penn; that alone might suffice to show that quarrels with an inferior race can be avoided, when the higher race is resolved not to fight, and that our conscious superiority in war is parent to the "law of nature" just alluded to. The low-minded, avaricious, and reckless settler is allowed by our anarchical principles to implicate the whole colony in calamity, and the mother country in anxiety and expense, beside the blood of our soldiers. But look again at Brigham Young. It is not flattering to us that a Mormon should surpass us in morality and in success; but he made the great discovery that it was cheaper to feed the red man than to fight him, and by acting on that principle, has wholly avoided quarrels. Happily we can add, that the Hudson's Bay Company, being able to exercise upon its whole area a control over Englishmen not elsewhere attempted, has long remained on excellent terms with

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the native American race. Whether as a result of that fact, we do not exactly know; but Canada has happily learned the same secret, and philanthropists of the United States are beginning to look with surprize and admiration at our success. President Grant not long back, as General of the Republic, announced officially that to kill one Indian demanded twelve lives of United States' soldiers and one million dollars. That is a result of having one law for the English race and another law for the Indians; who are treated neither as a foreign and independent power, nor yet as fellow citizens. But round and in the British possessions the Indians are dealt with as fellow citizens, and by this simple method good will is preserved.

Moreover, to forbid our supposing that any long experience, great wisdom, or late-developed morality is needed to solve these important problems—the relation of the Peruvian Incas to the ruder peoples around them is very instructive. It is sufficiently attested that these were neither conquered nor kept in subjection by violence, but were won over by the beneficence and wisdom of the superior power, which having once conciliated them, next gave to them such great works as France executes for Algeria, and England of late for India. To begin with these, is to conquer by love and keep in firm loyalty. To end with them seldom earns gratitude, and often does but afford a tool and means of insurrection.

Who can read history without the heart-ache? The tale is very uniform, with the European races at least, that men of violence—audacious and unscrupulous robbers—seize on persons, property, and land, and establish their will as law for future times. Quarrelling among themselves, they have to buy by some concessions the support of those whom they have trampled down; and by a series of such concessions, in the wear and tear of centuries, vast improvements in detail take place: the old violences are forgotten by the people, men of lowest station rise into high places, and the nation perhaps believes itself free. Free it may be, in so far as subjection to law is freedom: but unless that law be wise and just, the more sacred it is made, the deeper are its ravages. Surely then, every nation whose history this outline sketches (and it is the history of every European kingdom) eminently needs a Council of the Wise—a Wittenagemote—year by year sitting, to reform the old laws of barbarous and violent days, without exempting from examination and reconstruction anything on the ground of its antiquity. *Primâ*

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facie indeed, antiquity may suggest barbarism, if it be a law of privilege. Now in fact this idea is in part realized (if accidentally) by the institution of parliaments; and just in so far as parliaments have been able to legislate in a judicial and purely impartial spirit, the laws have been improved everywhere. But neither kings nor barons desire *too much* justice; lawyers and merchants coalesce with them against the "lower" people. In the course of centuries the lower classes learn, that the parliament legislates plentifully against them, and little for them; that it is an organ in the hands of others, and that their interests are little cared for, unless they make a noise and infuse alarm. Eminently this has been English internal history for a full century past. Under the Stuarts our Parliament earned its credit as saving law and liberty, when lost all over Europe by the usurpations of the kings. On that credit the Parliament lived during four reigns, in the last of which the final wounds were given to the independence of our municipalities. But when George III. ascended the throne, the nation at large felt profoundly that Parliament was the tool of the great nobles, and that through the tampering of the crown with the municipalities election was of little national avail. Thenceforward "agitation" (such is the political phrase) has been taken up into fixed service. It was regarded by the people as vital, and by statesmen at first as dangerous and seditious; afterwards, as a thing to be tolerated,—to be counted on,—finally, to be desired when it helped them in Parliament.

Of course we all know that we cannot do without it: not the less is it a *grievance* that we cannot. When we are aware of definite evils and injustices, we are glad to petition Parliament against them. Experience indeed teaches us that this is the only hopeful way, and many improve upon the method by adding seditious or threatening conduct to petition. But the grievance at which we point is the fact, that evil is never prevented, but only remedied (more or less) after countless suffering has revealed it; no statesman being sufficiently *at leisure* to look forward, or having any chance of being attended to, if he attempt anything important, until after a storm of agitation and convulsion in the country. No one can say that this is a desirable process. This is *Government from below*. To this our public men have, it seems, become so accustomed, that they count on it as something normal and constitutional. The phrase "His Majesty's Agitation" was invented, we believe, in Lord Grey's ministry during the movement of 1832. Grant that, when such a movement is past, one

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may rejoice that needful change has been so wrested out; yet surely the danger of the process ought to induce thoughtful men and prudent magistrates to forestall it in the future. Let us revert to one critical topic, which has been utterly forbidden in Parliament by the overwhelming power of the landlord class—the laws of land. What can be so dangerous, as that this topic should become a great staple of agitation? What so likely to introduce into politics that most disastrous of all party divisions, the contest of poor against rich? Besides, when men have appointed representatives to do a work, namely, to pass needful laws and to repeal the needless or hurtful, it is to be expected that they will do it, without being driven forward or wafted on by the blast of popular indignation. If legislators profess that the initiative must come *from below*, they either profess an ultra-democratic creed, or they court anarchy.

The reader must not suppose that we write as desiring, or imagining, or dreaming of an imperial or imperious minister who can both initiate and carry great measures against the judgment of the nation. No English minister has or can have or ought to have a very large latitude of action: but he may either march with the van or drag at the rear of the national movement, where there is great, visible, perhaps convulsive action. Nothing that we can write will tend to our getting a minister who combines prudence and genius like a Cavour. It is not so much to action that we refer, as to open-hearted suggestion, and that expression of judgment which stimulates or creates public opinion. Events and institutions with us so work, as to put a seal on the lips of ministers as to all that they *desire* and all which they judge *ought* to be done, until the time comes that they are prepared to do it. (This is not wholly true, but nearly true: opposite conduct is the exception, and is generally censured as "imprudent;" that is, inconvenient to their party.) But in fact, if ministers were not so hard worked and hard pressed by fear of overthrow;—if they could calmly study what is best, instead of thinking what there is a chance of carrying against opponents; if the same men had not the double task of legislation and of executive action;—there is no reason in the nature of things why any "great" measures should be ordinarily needed. Small measures, coming continuously and *early enough*, would prevent a thousand evils, without offence or alarm, and we should be saved beforehand from the dangers and sufferings of anarchy. For, anarchy is not too strong a word for that under which we have long been suffering.

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We will not say, look at Ireland. We will not dwell on executive, but legislative matters. Look at the history of churches, of education, of modern manufacturing, of mines, of agricultural gangs; look at the poor-laws, at criminal law, at commercial legislation, at the railways. In all we find the same broad phenomena—a total absence of *prevision*—evils on a great scale from the want of it—partial remedies at last, if remedies at all, after pressure from without. These things are too notorious to dwell on: in regard to the last-named, it might be said that foresight was impossible, only that every other nation has made its railway system more wisely than we; and probably in no other nation would the law-courts have permitted companies to squander the money of shareholders on objects different from that for which alone it was contributed. But we venture to dwell a little on that vital topic, National Churches and Public Education.

These were but one and the same topic in the estimate of our ancestors, as indeed with some modern speculators—eminently with Coleridge. To expect obedience to national law, and the morality which it comprizes, from masses of the unorganized and untaught—to account such men as citizens and equals—was always held to be self-confuting. To curb them with a strong hand, to allow them only inferior rights, to deal despotically with them as often as convenient—is a policy at least intelligible, and, if strictly temporary, sometimes a wise policy. But if we systematically avow them to be our fellow-citizens, we must secure to them the organization and instruction of citizens. Literature and its developments having grown up under the Church, our ancestors naturally identified the National Church and the National Education. Pious men bequeathed property for the two objects as though they were one; nor was it imagined that any should rebel against "the Church by law established" in order to gain intellectual culture and retain uprightness of conscience. When experience brought the fact to light, persecution was the remedy with our Tudors and Stuarts. With the Revolution and William of Orange, came in the principle of "toleration," which practically meant, connivance at the non-instruction of citizens. Dissenters were excluded by the fact of their dissent from the Church schools, low or high; and the State winked at it. They had to form their own libraries and colleges, and educate their own poorer members. Meanwhile the clergy, triumphant over them mainly through the perfidy of Charles II., had become so secularized, and the Parliament so languid in religious interest, that no new

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developments of the Church system took place, to meet the wants of towns growing in population. That every large town should be swollen by a disorganized mob, unknown to State authorities and untouched by public instruction, appears to have been accepted as the normal condition of freedom. After 180 years of this regimen, we see too plainly the fruits.

Many honest lovers of freedom, heartily believing in human progress, suppose that nothing is wanted but a little *more* freedom, and then things will right themselves. Let events reply. On the one hand look to New York, and see what freedom without culture yields. Ignorant Irishmen and Germans unaccustomed to exercise power, fleeing from hard circumstances at home, find their votes to be courted, and that by an instinctive union they may exercise a government from below. In consequence, base men easily rise into power, mounting on their ignorance, to the disgrace of the community and with endless mischief. We do not forget how much the Germans have been enlightened by the late war: so severe an instructor is not desirable. We not the less see the tendency of disorganized masses. But next, how does freedom, when waking from her surfeit and regaining sobriety, put a term to these evils? By insisting on measures which quiet and moral Englishmen are apt to malign as despotic. Precisely as the freest-hearted men in the Northern Union called out during the war for suspension of Habeas Corpus, and for a strengthening of the executive arm, so both in the United States and in the signally free colonies of England the movement is strong and steady in favour of education practically universal, and *compulsory if need be.* Side by side with this goes a restriction, which many here call despotic, on traffic in intoxicating drink. To exercise the rights of citizen freedom, the minds and hearts of citizens are needful; and therefore we must insist that instruction shall be carried home to the individual, and that society shall not be afflicted by a mob of marauders, unknown and irresponsible.

Connected with this is the question of a parent's right. While parents fulfil their duties to children, no one can desire to interfere between them. When a parent unnaturally neglects or cruelly attacks the body of his child, by famine, cold, or blows, the law interferes, and will not let him starve or murder. But what if the parent train the child to nothing but crime,—so rearing it, that a life of honest industry becomes almost impossible? Many a father lives in idleness, and sends out his children to beg; beats

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them if they come home empty-handed, and pampers himself, as best he may, out of the fruits of their beggary. If a father neglects that first duty, of nurturing his offspring, does he retain any rights as father? *Pater*, we are told, superseded the word *genitor*, when by the social recognition of marriage the *genitor* took on himself the duty of *feeder* (pater = pastor). Previously the mother, not the father, had the sole right over the child, as she had the sole care and trouble for it. The unnatural and impious abuse of a father's power should certainly cancel his legal rights,—we do not add, annul his legal responsibility. Though, in fact, if we could learn the history of these families, it would often be found that there had been no legal marriage. The matter at which we now point is this: that for the injured children of our towns, and of our agricultural gangs, compulsory education is chiefly or alone needful; yet it cannot be had without a decisive interference against a father's or mother's power. Mothers too, when infatuated by drink, become stony at heart towards their little ones, and will pawn for a few glasses of gin the clothes given them by a compassionate stranger. Alas! we touch on the skirt of a vast and terrible subject. It is impossible to instruct the children of sots, without feeding, clothing, and housing them also,—in short, without adopting them by the thousand as children of the State,—unless the drink be forcibly withheld from the sot, as a weapon from the insane. Indeed several of the States in America have hit on this very method,—to treat drunkenness as an insanity. We certainly shrink from the proposal, that any parents shall be allowed by mere easy misconduct to shift on the State the burden of caring for their children. It is clear by the experience of foundling hospitals how fatally this would operate. We see no other issue, than that drunkenness, whether public or private, should be held an offence, lowering a parent's rights but not impairing his responsibilities; an offence, which, if repeated, would subject him not only to special forfeiture of a parent's rights, but special taxation for his child, with stringent means of enforcement. Yet who can hope to screw payment out of a sot, if we allow the drink to be perpetually held under his nose? In any way it is manifest, that to get rid of ever-increasing mischiefs we need much intensifying of wholesome government.

The cruelties and other monstrous evils of the agricultural gangs have afflicted our imaginations of late as something quite new; and they have been a new revelation, yet they are not new in fact. This is our way. Under new industrial developments,

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as, from the steam engine in mines and manufactories,—it is quite impossible for the central legislature to be omniscient or prescient. Laws against unimagined offences cannot exist: hence evil of a new type grows up gradually, and becomes known to the legislature only after it is matured and deadly; after a new generation has been reared in new habits and inured to it; after buildings have been erected and vast capital sunk, on the expectation that it is not to be interfered with: and then,—the power of vested interests is exerted to support it. Among the causes of this, is the great unwillingness of Parliament to pass laws in broad and simple terms; which is the only way of approximating to that state of things in which Law shall become identical with Morality, and lose its arbitrary elements. But an over-worked Parliament, agitated by party-conflicts, has not the judicial temperament and tranquil leisure needed for such law.

The cry of Pauperism so loudly sounded from East London, is sadly reverberated from Liverpool and from Edinburgh; nay, everywhere the increase of violent crime, poor-rates, jail-rates, and other burdens from the traffic in intoxicating drinks, is bitterly bewailed. But upon these comes a new alarm, and something worse than an alarm, from the Cotton districts. It had been fondly hoped, during the American civil war, that, so soon as it terminated, the crops of cotton and the whole trade would resume their previous course. So firm was this conviction, so great the infatuation of individuals, that all through the war an extensive building went on of new mills furnished with the newest improvements in machinery. Now, on the contrary, it is far more plausible to forebode that the cotton trade of England will never regain its pre-eminent position. Were these dangers unforeseen? On the contrary they were both foreseen and pointed out, alike by individuals and by Chambers of Commerce; and were pressed upon the attention of Governments always over-occupied, always unwilling to undertake any business which they could possibly defer; moreover prepossessed, both enough and too much, with a jealousy, in itself wise, against doing what it belongs to the trader to do. The traders who urged their suit were not unacquainted with political economy and the doctrine of Laissez-faire; but they pleaded that it had its limits,—that there were things which no private persons could do; that obstacles created by Government, only Government could remove; and that when a trade overspread a great area, involving the fortunes of an entire population, its failure would be a public calamity, to say nothing

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of the prospects to the Exchequer. The Manchester Chamber of Commerce did what it could by sending agents of its own to India, in hope of promoting the growth and exportation of Indian cotton to England; but the impediments from want of road or watercarriage, with the peculiarities of Indian taxation which disinclined English capitalists to risk at once their fortunes against incalculable elements and their lives against the climate,—besides the fixed habits of the natives,—made progress very slow. The enormous danger of depending on slave culture was well understood. It was foreseen that rebellion might suddenly cut off our whole supply of cotton from America, and that freedom would probably take the women (that is, half the labourers) off the fields. Two things were *not* foreseen, which now threaten the trade or are actually pressing it down. The one is, that the Southern States of America are no longer satisfied with depending on the North for food, and are turning their cotton fields to a new purpose. The other; that the English people, by the temporary scarcity of cotton, are become less and less dependent upon it. That this is, on the whole, to be regretted, it may be impossible to say. Our ancestors found wool to be excellently suited to our wet and chilly climate: only in a few sunny months did linen and muslin appear suited for outward show. The Welsh have continued to prefer woollen garments, and except for partial internal wear, cotton has no intrinsic advantages to us. It belongs to a vulgar and unwise taste to prefer under our sky two flimsy cotton gowns to one of wool or mixed stuff; and there is much to indicate that the great start given to our woollen manufactures during the cotton famine will not be lost again. In fact, that famine continues. The insane panic which seized the Indian cotton merchants when the Confederate armies in the United States were crushed, inflicted a ruin which still paralyses the trade in India. The price of raw cotton is 50 per cent. greater than it was in 1861, and cotton goods in our market sell only at 15 per cent higher. The customer, apparently, goes without the article, if a higher price is demanded. A wide-spread strike from the Trades Unions has long been threatened, because masters who are working their mills at an actual loss, desire to lower the wages. All these things necessarily make the immediate future of our most important manufacturing district very gloomy.

Now, what is this to our present purpose? We are not blaming any one statesman, nor any one ministry; but the more one exculpates individuals, the more the old inference comes back

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upon us, that the *system* is to blame. If our *principles* force ministers to carry economic "Laissez-faire" into political neglect and blindness, this is a formidable evil, very apt to make a constitutional state less wise than a despotic monarchy, and thereby to raise hankerings after despotism. If we are asked, "What is our remedy? Are we preaching despair? Is this a mere jeremiad? What is the use of finding fault, if we propose nothing?" we reply: We do *not* preach despair, and we do *not* believe that evils are without a remedy, if intelligent men were in earnest to seek for it. But physic is proverbially nasty; every change pinches somebody; all reform which goes beyond small routine startles the timid and invites attack from the pugnacious. Proposals from us will not be listened to with deference. They may contain a germ exceedingly precious, yet may need partial correction of a friendly kind, such as we cannot expect, until the parties whose rivalry distracts the nation feel a deeper patriotic alarm at possible common calamity. At present it may be wiser only to invite our readers to study the disease, and consider whether we have overstated it. The remedies for Pauperism, Proletarianism, Vice, and Crime, cannot be single nor superficial. They will demand much sacrifice of prejudice and of selfishness, much devotion of time and tranquil thought.

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CONDITIONS OF PERMANENT PEACE.

From "Fraser's Magazine," October 1871. *(Shortened.)*

IN our schooldays we read much of the cruel wars between Border States of Greece or Italy; wars such as rose anew in mediæval Italy; though ancient Etruscans, Phœnicians, and African Punic States generally obviated them by the simple remedy of Federation more or less intimate. When kindred States which might have coalesced in early barbarism have passed beyond that stage, the personal ambition of chieftains is apt to resist any just and healthful fusion, even if the multitude have no jealousy, nor bitter memory of mutual injuries. A citizen who advised union might be charged with treason by the powerful. Niebuhr, indeed, calls Isocrates a blockhead for desiring union with Philip, which in retrospect now seems the happiest of the lots open to Athens and Greece. So now, if a Dutchman desire incorporation of Holland with Germany, or a Belgian plead for absorption of his country by France, plenty of critics would sneer down his longings as unpatriotic and absurd. Nevertheless, these yearnings for Union are incipient cement of neighbour and congenial peoples, and out of them a real Federation may be born at length.

European communities have long suffered from one another the horrible curse of war, which is more painfully felt in proportion to our humanity, our refinement, and the artificial means of livelihood. Recent wars undoubtedly are shorter. The gain from this is vast; for, the destruction of crops and cattle, of stores, of houses and of trees with the discouragement to cultivation, from long wars, is worse than the loss of life in battles. But while we must not shut our eyes to the gain which has really been made, still the evil of war to Europe is alike enormous and disgraceful.

Yet there is nothing gained by mere talking against it, without pointing out the causes, and the direction in which a preventive is to be sought. To declaim against war in the

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commonplace way *which confounds both combatants in common guilt*, is not merely useless, but is also unjust and mischievous. In private life also (no one denies it) fights between individuals are greatly to be deprecated. But if it be ever so true that it would be higher virtue in an invaded nation to act on Quaker principle, it remains clearly unjustifiable to equalize in our censure the aggressor and the repeller; or indeed to use censure at all against those whose cause is just, who yet have the calamity of suffering under aggression. Where the injustice of one side is clear, the Quaker mode of talking against war is manifestly wrong; indeed the most thoughtful men among them avoid it. Nothing gives plausibility to it but the complications of war itself; the frequency of error, injustice, or folly *on both sides*, the sufferings of neutrals, and of populations which had no voice in the war; to say nothing of suffering to the whole female sex, to children, and to thousands of horses, who die in long agony or starvation. An invaded nation has to submit to all this contingent misery. If in necessary self-defence it carry the war over to the enemy's soil, it then unwillingly inflicts the misery; but THE GUILT RESTS ON THE AGGRESSOR.

The causes of war are as plain as the causes of quarrel in private life. Cupidity, pride, injustice, fear, in turn excite men to aggression. It is a familiar thought, that men will fight out their private quarrels—or, as it is expressed, will take the law into their own hands—unless the law-court is open to them, and a police be at hand for their defence against sudden attack. In so far as pride without cupidity may stimulate to war, it might seem that a mere resort to arbitration would suffice to keep the peace. The late Mr Cobden, who must always be mentioned with respect, was entirely convinced that European wars could be stopped by a general agreement to abide by arbitration. His urgency won so much upon our statesmen, that, on the close of the Russian war by the peace of Paris in 1856, Lord Clarendon in the name of England initiated some important clauses, of which one avowed that the powers who signed the treaty would never thenceforward undertake war without first attempting to stay and supersede it by arbitration. England, France, Russia, Sardinia, Turkey, all signed this treaty; yet in a very few years the solemn promise proved itself to be mere wind. In 1859 two of these powers, France and Sardinia, entered upon war with Austria without first asking arbitration: and a moment's consideration will explain why. The arbitrators

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could only have taken the treaties of 1815 as the law to guide their decision. These treaties were forcibly imposed on France and Italy, and to Italy were flagrantly unjust, utterly pernicious. The war was only the beginning of Italian uprising against petty native tyrants, upheld by Austrian arms. If any royal arbiters could have been found to pronounce a decree against the Austrian occupation of Venice and Lombardy, and the Austrian support of Italian tyrannies, they could not expect Austria to withdraw from Italy at their command. The command itself, being a protest against the treaty of 1815, would have been fairly accepted by Austria as a virtual declaration of war. To expel her without actual war would have needed at least the threat of war from an overwhelming combination, and the assurance that no ally to Austria could be found. In his fond expectations from arbitration Mr Cobden seems to have forgotten that arbitrators would be unable to take great moral principles as the guide of their verdict, and would have to shape it in accordance with European treaties, which were made in defiance of the rights of peoples, for the mere convenience of powerful princes.

Still, it was not unreasonable to think that, inasmuch as mere punctilious pride is sometimes the small weight which, when thrown into the scale, turns it to the side of war, arbitration might suffice to keep the peace where the point of honour is concerned. Perhaps this has happened when the question how a treaty is to be interpreted is the only point of quarrel. War between England and the United States concerning the boundary of Maine, and indeed concerning the boundary of Oregon, might perhaps have been incurred—merely because neither power would submit to be overruled by the other—had arbitration been impossible. No strong passion here underlay the "point of honour." But in 1862 England was put to the proof, and found wanting. An American ship of war boarded an English packet vessel, which was conveying two ambassadors from the Southern insurgents, and forcibly took them out of it. If the American captain had seized the ship itself, and carried it into port for the adjudication of an Admiralty Court, the Northern Government might then have got possession of the rebel ambassadors (so the English Crown-lawyers advised the Ministry) without offence to us. But the captain, in his desire to spare the innocent English passengers the annoyance of detention blundered as to his power of acting * *without*

* This is precisely what the *English* naval captains habitually did during our war against old Napoleon, in which the American Union

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an Admiralty Court, and hereby violated maritime law. The English Ministry resolved to demand the instant deliverance of the ambassadors. The arsenals began to work day and night, as though war were already a reality, and the English newspapers —the *Times* pre-eminently—blew martial tones. Lord Russell, as Foreign Secretary, wrote to the Cabinet of Washington a curt and peremptory despatch, with threat of instant war. The London Peace Society, in the midst of this excitement, sent a deputation to Earl Russell to remind him of the treaty of 1856, and implore him to have recourse, according to our solemn engagement, to arbitration before declaring war. But Earl Russell bluntly replied, that the treaty had no reference to such a case as the present, *in which our honour was concerned.* It thus appeared that the treaty was but waste paper. Even to stave off war on a mere trumpery petty point of honour, where a well-meaning naval captain had proved himself not to be a perfect sea-lawyer, the treaty was found unavailing! Bystanders will probably say that the English Ministry at that crisis *desired* the war, and that their jealousy of a strong republic was at the bottom of their conduct. Be this as it may, Mr Cobden's scheme of arbitration, to be secured by treaty, has been shown to be no stronger than a cobweb. When passions are at work, superior might, not unarmed arbitration, is needed to control them.

The magistrate who hinders private men from fighting out their quarrels is not an arbitrator whom they agree to choose, but is an official wielding the public force, who imposes his mediation upon them. So too the king, or king's ministry, which forbids the war of baron against baron, is permanently above every local grandee, and is armed far more powerfully. We must apply the same analogy to nations. When passions are excited, no arbitration is effective unless the arbitrator is competent to enforce his decree; nay, neither combatant will allow his case to be carried into the arbitration court at all, even if enforcement of the decree be disavowed beforehand. For each fears moral damage to his cause

was neutral. They stopped American ships on the high seas, and (without caring for Admiralty formalities) took out of them any sailor whom, by the ruddiness or breadth of his face, *they judged* to be of English birth. This was one of the two causes of our second American war in 1813. Even after the war the English Government would not confess its error, or promise not to repeat the practice; nor yet in 1856, when they renounced the right of seizing neutral goods (which was the other grievance), did they renounce this right.

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from acting against a decree after it has been pronounced. Finally, then, the problem is not solved unless the arbitration be compulsory; in short, unless the right of private war be forbidden to the separate communities which now possess it, and be vested in far greater federations.

These considerations show what development of international institutions is *to be desired.* Unless this question be studied beforehand, we shall not be prepared to accept the desirable thing, if a crisis arise at which for a short moment it becomes possible. It was therefore quite wrong to exclude and explode a theoretic organisation as Utopian and impracticable, merely because as yet we see no mode of introducing it. National developments can seldom be resolved upon, even by statesmen, much less by private men; but if they are intelligently desired, this will secure that they shall not be dreaded and rudely refused when circumstances suddenly make them possible. For Italy union was an essential condition of independence, and hereby of freedom. For three or four centuries this was not understood. Union was desirable, yet was not actually desired: hence to Italy so many centuries of foreign oppression. Joseph Mazzini, more than any other man, taught Italy to desire unity. In consequence, when 1861 arrived, the eccentric career of Garibaldi was endowed with tenfold energy, union became first possible, and presently a fact, in spite of France, of Austria, of Spain, and of the exiled Italian princes; in spite also of the Pope and of the whole Catholic hierarchy. Again, the union of Germany under the Emperors was by no means complete. The peace of Westphalia, in order to secure safety to the Protestants, much impaired it; and the power of Prussia since Frederick the Great damaged it still more. Even so, collective Germany was too powerful to please the ambition of the First Napoleon. In order to break it up more effectively, he destroyed the very name of German Emperor, and invented the title "Austrian Emperor" instead. Austria, by her great outlying possessions, which Germans could not admit into Germany, exercised an influence necessarily unconstitutional, and prevented any common policy from being steadily felt and upheld. Upon the peace of 1814, this evil work of Napoleon in Germany ought to have been undone, and the German empire reconstituted: but the vanity of the princes whom Napoleon had made out of electors into kings, on the one side, forbade; on the other, the antagonism of Prussia with Austria disinclined these greater powers to allow either to become

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the centre of empire. From 1814 to 1866 the Germans felt themselves wronged in the destruction of their formal union under an emperor. At length the union of Italy, achieved suddenly in 1861, kindled so visibly their desire to imitate the example, that the statesmen of Prussia (pre-eminently Count Bismarck) resolved to strike a blow in this cause. The mode in which Prussia initiated the war of 1866 was truly difficult to defend. Any arbitration court would have been sure to condemn her; so little formal cause of war did there seem to be. The moral offence of Austria was, that her presence in Germany kept the nation weak and helpless before France and Russia. The exculpation of Prussia's boldness lay in the fact that she was aiming to unite Germany. Of the Kings of Hanover and Saxony, all that Prussia asked was that they would remain neutral: but they would not.

The South Germans themselves, especially of Bavaria and Würtemberg, though Catholics, and accustomed to side with Austria against Prussia, yet rallied to the cause of Prussia the instant that the war was over. For they had discovered two things—that Prussia was aiming at German unity, and that Prussia by her energy and intelligence deserved to be head of Germany. Hence, in spite of the indisposition of the King of Würtemberg to support Prussian policy, all South Germany made with Prussia treaties of offence and defence, which virtually put their whole military force into the hands of Prussia. This was the real Act of Union. It was made possible only by the war of 1866; but even when it became possible it would not have become a fact had there not been a long previous *desire* of unity, which desire great numbers of political reasoners, who fancy themselves the only practical men, would deride (and have derided) as Quixotic and unpractical. But even Hanover and Saxony are now loyal to the Prussian headship.

The time is surely come when another step of such "desire" is allowable. We may desire for Europe *a federation* of States on a far larger scale than used to be imagined, or than was possible before the era of railways and telegraphs. Mr Cobden used confidently to say that we need not fear the preponderance of Russia, for she would be sure to break in pieces of herself before very long. It is a public fact that on one occasion he declared that Russia might easily be "crumpled up," like the sheet of paper in his hand. But, through our mechanical and chemical developments, a population of a hundred millions is wielded now by a single executive more easily than a population of five millions at

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the beginning of the century. Russia has peculiar sources of weakness, in her climate, in the northern course of her Asiatic rivers, in the dreary extent of her wildernesses, in her frozen northern seas, and in the narrow exit of the Black Sea. To these physical facts must be added the enmity of the Poles, whether found in Poland or in Siberia, and the half-developed state of the Russian population. Indeed, it can scarcely be doubted that the land question over all Russia has to be re-considered from its foundation. The Emperors and nobles have brought in from Germany the feudal doctrine, which, under our mercantile developments, presently generates the modern English ideas of landed property. But the serfs or peasants persistently hold beliefs which we are apt to call Socialist; and since the establishment of freedom this question becomes more and more urgent. There is nothing in it at all tending to dismember Russia, but it may for many years embarrass and weaken the Russian Government. It is not intended here to fan *Russo-phobia.* Russian influence over Turkey and Persia—and still more over Circassia, Independent Tartary, and Bokhara—is as desirable for humanity as the influence of England over native Indian States. Nevertheless, it cannot be forgotten that the European population of Russia is, at least, seventy-eight millions; that probably not much short of fifty millions are quite homogeneous and endowed with a common national spirit; that constitutional freedom is not yet established; that little check on the warlike tendencies of an imperial cabinet can be exercised by local opinion; finally, that in the basin of the Volga the increase of native Russian population is very rapid and steady, and never is lessened by emigration, while the vast southern region north of the Black Sea is of almost unparalleled fertility. Without doubt, we must count that the next thirty years will add at least as many millions to the European population of Russia. To anticipate that in the year 1900 they will reach one hundred and twenty millions has nothing in it extravagant. The continuous flatness of the country until the Ural Mountains are reached, with the homogeneousness of the people (for the Cossacks are but slightly heterogeneous), gives very little reason to imagine that this vast power will "break in pieces." On the contrary, every ten years must add to its coherence, through the development of travelling, of merchandise, and of epistolary communication. With so vast a power lying along the east of Europe, from Finland to the

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Crimea, ought it not to be an axiom that a State commensurate with it in Central Europe is become (what Lord Palmerston would call) a European necessity? Internal weaknesses in Russia, imperfectly perhaps known to us, *may* suffice to save European States from her injurious pressure in the future; but in the case of Poland first, and Hungary next, they did not suffice. Evidently it is unwise to count on the weakness of Russia. In the face of such a power as she is already, and much more in the prospect of what she is sure soon to become, who that looks on Europe as a whole can hesitate to say that we need a strong Germany, and a strong Danubian power? Nay, if Germany and Austria were once more blended, and the whole of the Austrian dominions were federated with Germany, making (suppose) a mass of eighty millions, it would only suffice to keep a safe balance against Russia. No sooner did the German armies gain such successes recently as to suggest that Germany might dictate terms of peace to France, than outcries in various quarters arose that care must now be taken lest Germany become too powerful! Yet if we look at what Russia is and must be, the real danger surely is lest it be impossible for Germany to be strong enough, now that Poland has vanished.

It is foolish, and it must be an impotent practice, to form our wishes on this subject and try to guide our policy in conformity with *English traditions*. If we are to believe some reasoners, the empire of the seas normally and rightly belongs to England, and any state that dares to have a strong navy is our natural enemy. Hence we must, forsooth, intrigue and fight to prevent any great Continental power from attaining good harbours. We cannot, indeed, take from France her many harbours, but we must not let her get those of Belgium, even if Belgium ever so much desire union with France; and we must leave no stone unturned to prevent Germany from having a powerful navy. In the days of sailing ships, and before the United States had become a great power, such doctrine easily passed as wisdom, and may seem excusable. But now that we cannot exercise our old supremacy at sea, the whole doctrine is antiquated. We shall not again, as in Nelson's days, destroy the fleets of France and Spain. Italy will have her fleet; that of Austria will increase; the navy of Sweden is respectable; that of France is powerful: and is Germany alone to be without a navy? The fact is, that a State which has but a small naval population

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cannot have a large merchant fleet, and, therefore, has little occasion and little facility for a war fleet. Unless irritated and alarmed by the dangerous navies of other powers, and eminently by that of England, it is not likely to encounter the expense. But in proportion to the growth of a merchant navy, fighting ships are needful to protect the commerce; and it is reasonable that every seafaring power should contribute its quota of force to keep down piracy in all waters. During the eighteenth century, through the prevalence of despotism and misgovernment on the Continent, England was disproportionately powerful. This was an accidental and transitory state of relations. If, through older freedom and well-developed industry, England with thirty millions can be as powerful as France with thirty-eight millions, this is a sufficiently great achievement. With a very long sea-coast, we have a large maritime population and a powerful naval force. If at sea we are more powerful than any other nation singly, that is a great thing. But to insist that we must have fleets able to cope with the collected navies of the world is absurdly unreasonable. To find ourselves confronted by one very powerful rival, with no other naval states at all to compare with the two, would be a very anxious position; for mutual jealousy and enmity might be naturally anticipated. But in the multiplication of powerful navies, each a little inferior to ours, our best safety is now to be found. Just so, in a crowd of men each man finds himself safe, and particularly one who is himself a very strong man; but if two strong men be thrown together, with no one at all able to control them, the contact may be evil for them both.

As the traditional idea of a needful balance of power reigns in the minds of English public men against Continental potentates, so does it reign in Continental states against the marine potency of England. We did not carry ourselves meekly when our naval supremacy was most complete. It is seen moreover how we have behaved to China, to Burma, to Japan (to say nothing of our continental wars in Asia): hence, whatever we may wish concerning it, other great nations will, for defensive purposes, have their own ships of war. The grave inconvenience is, that such a form of *defence* is at the same time an *offence*, and, if it go beyond a certain magnitude, alarms and annoys other States. This objection peculiarly lies against the navy of England; but it cannot at all attach to so moderate a navy as would be commensurate to German commerce.

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The jealous doctrine concerning the Balance of Power, though it cannot be wholly discarded, needs re-analysis and modification to adapt it reasonably to present circumstances. Not to go back to the time of Charlemagne or the mediæval German emperors, we find in the history of properly modern Europe five great powers, which have excited just jealousy in the rest—Turkey, Spain, France, Austria, and Russia. Each has been a military despotism. Spain once had admirable institutions of freedom, and was not dangerous to Europe until they were crushed by the monarchs who had sworn to uphold them. The House of Habsburg acted this perfidious part, alike in Spain, in the Low Countries, in Bohemia, in Hungary, and by its immense outlying resources reduced the freedom of Austria itself to a nullity. As for France and Russia, despotism rose with the very formation of the monarchies. A great military power in the hands of a despotic king is always aggressive and formidable. The king covets subjects, of whatever race; all come alike to him. He can tax them, and he can press them into his armies, whatever their native tongue. Whether they be rude and ignorant, or refined and clever, they are equally welcome to him as vassals and slaves. Such a power, when its military superiority is unquestionable, is impelled into unlimited conquest. Of this nature have been all the celebrated empires of history, ancient or modern. We need not except the Roman Republic; for the mass of the conquered were kept as vassals, not admitted to equal citizenship; and the oligarchy which made the wars profited by the conquests. The overspreading of India by the British supremacy has many analogies to this. Against a military power which is thus based upon vassal peoples, smaller powers have no strength but in jealous alliance; obstinate wars "for the balance of power," that is, to beat down the force which is too strong, naturally follow. Indeed, when overshadowing greatness has been gained by mere conquest, to reduce it by reconquest appears *primâ facie* not unrightful. In this way all Europe combined against Turkey, Spain was pulled down and humiliated by the untiring enmity of England and France, which yet could not have succeeded but for the infatuated misgovernment of her degenerate despots. Austria in like manner, through her ferocity against Protestantism and liberty, in Germany, in Bohemia, and in Hungary, became too weak to repress the French military power, which in its turn became a public curse. In the present century Austria has been an oppression only to her own subjects and to Italy. France and

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Russia have been the two overbearing continental powers, peculiarly dangerous to all Europe, just because Germany was divided. A union of Germany, if allowed to coalesce, would effectually restrain the dictatorial violence of France; and therefore every Frenchman (according to Minister Rouher) felt "patriotic anguish" at those successes of Prussia in 1866 which Napoleon and his ministers had deemed impossible to be achieved except by the aid of France. Europe, previously open to pressure on opposite sides from France and Russia, gains stability as soon as a really powerful Germany is interposed.

At the same time modern Germany gives to Europe at length a first-rate military power, which, because it rests upon institutions essentially free, cannot be dangerous to its just and peaceable neighbours. The vast armies of Germany are emphatically armies of citizen soldiers, as truly as those of Switzerland. In a war of defence we have seen how they spring forth in myriads, and how lavishly they sacrifice life. But nothing of the sort could be obtained from them in a war of aggression. (The war against Denmark must not be adduced in refutation of this remark, for it is undeniable that the Germans collectively did most sincerely believe that a German population in Holstein and Schleswig was suffering unjust treatment from the Danish Government. It was a peculiar illusion, which can scarcely recur.) The contrast between a French and a German army is strikingly set forth in the fact that while in the German ranks every second man is father of a family, among the French it is an eminent insult for one soldier to call another "père de famille." Hence the French army is to France a moral desolation and an infamy, which has indeed been made tenfold worse by the despotic practices and fatuous theories of the French medical police. The suffering which Germany endures from the loss of life and wounds in battle, where the soldiers are taken from the heart of society and from civil occupations, has been recently insisted on in our newspapers. She cannot, as France, win victories by the sacrifice of cheap lives, and with gay heart. Surely in this all foreign States have a precious guarantee that nothing but a deep conviction of duty will make Germany undertake a grave war, and no other war seems possible to her. Moreover, the German Union will not be durable unless every State has its proportionate influence in deliberation concerning wars and foreign treaties. No central executive, no functionaries eager for new lucrative appointments, will be able to make wars and conquests for the gain and

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pride of their class. A nation of freemen may be covetous of fellow-citizens, but it always dreads the conquest of foreigners, who cannot be treated as equals, for in that case they easily become tools of usurpation to its high officers. An Alexander or a Cæsar is much delighted, a free people is gravely embarrassed and alarmed, by the conquest of a foreign population. Hence Europe has not to fear conquest by modern Germany so long as Germany is tenacious of her own freedom. And, in fact, her freedom is likely—nay, is certain—to grow stronger. Hitherto it has been variously repressed, by the foreign forces and religious bigotry of the Austrian monarchs, by the too great military development of the numerous princedoms, by the jealous ambition of the Prussian dynasty, and by the haughtiness of princelings who looked to Austria for support. But now that Prussia has shown that she is pre-eminently fit to be leader of Germany—now that Germany has zealously rallied to her, and rejoices proudly in its own unity—all motive has vanished from the Prussian dynasty for any jealousy or suspicion. The immense extent given to the national suffrage by the present King (high-flown as is his theory of the royal power) was a marked phenomenon of his reign. His haughty treatment of the Parliament down to the year 1866 was necessitated by his secret resolve to contend against Austria for supremacy in Germany, and has ever since been quite changed. With so very cordial a union as exists between people and prince, the time-honoured local institutions of Germany are destined to receive intelligent development, and to secure the public freedom permanently.

That there is in Germany a knot of doctrinaire republicans, who can be satisfied with nothing but the formal overthrow of monarchy, need not be denied; in fact, the same thing may be said of England. Are they numerous enough to alarm the dynasty, and goad it into reaction? Of that no sign appears. The Germans, like the Italians, even when republicans in theory, appear to value union more than republicanism. No better proof of this is needed than the return of so many republican Germans from the United States to fight in this war for the Union. This is the more remarkable, since political discontent has been in the past so powerful a motive with Germans for emigration to America. In a Germany justly united, where personal freedom of speech and action, local independence, and central energy are all reconciled, the great mass of theoretic republicans will become as harmless and as

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loyal as they are in England; and the few eccentric doctrinaires will be too impotent to excite fear. That the present brotherhood of war wins for Germany full freedom as well as independence of the foreigner, is, we may safely count, an axiom with every brave man who risks his life for the Union. Surely then, if we retain some traditional zeal for the Balance of Power, it ought to be directed entirely against Russia—supposing France to be no longer dangerous. To restrain Russia, the power of Germany, if even clearly doubled, would not be too great; for between equals calamitous war may ensue; but if Germany could become manifestly superior, Russia would be sure to keep the peace; and it is difficult to see that any danger can arise from a free and federated Germany, however strong.

If we look to a great central European power, as having for one of its functions to repress wars, and enforce arbitration, it is evident that a vast increase of force is necessary beyond all that is at present in prospect. If wars voluntarily taken up for noble objects must be sustained out of spare energy, much more does the place of that power which is to forbid wars require a great superfluity of energy. To be able to do this within the limits of a great federation, is in itself a mighty attainment. England not unjustly boasts of suppressing war among the two hundred millions of India, although they are not by the process made capable of self-protection. The Americans of the Northern Union have sustained one terrible civil war, caused by fanatical zeal for slavery; and a chief motive with the North for fighting it to the end, was, to secure a union which should prevent all such wars in future. Surely, the wider the German Union can spread by good-will, the greater the direct benefit from the extension of internal peace. If Germany, triumphant over France, were to invade and subdue Switzerland, in order to incorporate it with Germany, this would be a great crime, however good the end in view—however sincere the intention of treating the Swiss as equals. But it would be a blunder as great as the crime; so great a blunder as to be morally impossible. If Germany is really to cohere in freedom (and now, it seems, no successes of France can tear apart a union which is mentally accomplished, and cemented by blood), Switzerland herself would be the great gainer by joining the Union. These little powers always excite covetings in ambitious monarchs; and until France has stable freedom, with no

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centralized paid army at the disposal of her executive, Swiss independence is a jewel anxiously preserved only by the perpetual vigilance of armed citizens, not without aid from the jealousies of other great powers. Germany, united and free, would be a mighty attraction to Switzerland. If completely victorious over France, she may be able to enforce that France shall yield up Savoy (recently extorted from the King of Italy), and add it to Switzerland, who, without it, has no safe frontier. For us, it is quite premature to say what will be possible, still less can we say what will be done; but it is not premature to consider whether the contingency of Switzerland entering the German Union is to be looked on with fear or with desire. Surely, with desire. No little State ought to be violently suppressed; yet little States are to be deprecated, as natural marks of cupidity, which cause the danger of war. If of their own good-will they become absorbed in a neighbour State, one more stone of stumbling is removed from Europe.

Those who wish the Balance of Power to be sustained, sometimes speak as though the mere fact of becoming powerful made a State a just object of jealousy. But thus to neglect the moral aspect of the case can only lead into error. If England, or one of her colonies, by wisdom and justice, became populous, rich, high-spirited, and thereby strong, such a fact is no reason for sinister jealousy, but only for zealous imitation. If Germany had never had an emperor, and until recently had been nothing but petty sovereignties, a voluntary union of these into a single great power would be a wise and just act. In fact this is the very thing that has been done in Italy. The rise of a new Great Power may be offensive and vexatious to the ambitious and unjust, but there is nothing in it to give rightful offence or to excite terror. Apparently the only way in which European wars can be suppressed is, by the successive agglomeration of free men, living under and retaining their separate institutions, into powers which have no interest in war, but much interest in peace; until unions reach such a magnitude as to be able to forbid wars of cupidity, and offer a high tribunal for the redress of international grievances. It cannot be too much pressed, that, the more heterogeneous a union, the less easily can it have a common interest in any unjust war; and, the wider the area of a union, the more heterogeneous are its interests, even if the race be the same. How unlike are the interests of California and of New York in any imaginable foreign war! How unlike even

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those of New Orleans and of Maine, though their ships sail into the same ocean! *If all parts of a mighty union have their proportionate weight*, in questions of war and peace, no partial and vicious expediency can actuate them in common. Justice alone is the universal good which can unite their desires and efforts, or make them collectively willing to undergo sacrifice. Hence, if the federation do not concentrate the decisive power over foreign affairs in some favoured city or some executive cabinet, the wider the federation, the more benign its aspect on the whole world without, especially if the populations absorbed into it are heterogeneous in character, in pursuits, and in cultivation. Nothing but the centralization of military affairs and foreign policy in Paris has made France, whether royal, republican, or imperial, a constant anxiety to her neighbours.

Instead therefore of grudging strength to the German Union, and making outcry that there is danger of its being too powerful, our part is to rejoice that at length a first-rate military power has arisen in the centre of Europe, based not on helpless vassals, but on free organised intelligent communities, who, though willing to lavish their best blood in defence, will always resist and forbid aggressive war. How far such a union will be able to extend itself, events alone can show us; yet certain circumstances permit us to speculate on interesting possibilities. The German Austrians, four years ago, were extremely incensed by their exclusion from the union, and have ever since protested against it. Inevitably their desire to return must be greatly kindled by the fact that Germany has now rallied so energetically to an eminently capable leader, fully inspired by and expressive of the national movement. The reason for the expulsion of the German Austrians was essentially dynastic. The Austrian dynasty, because of its past history, was too dangerous a rival to Prussia, and from its non-German crowns too powerful. The difficulty remains and must remain until the Austrians consent to some dynastic change. It is easy to see what changes would suffice, but impossible to guess what force is required to bring them about. This only is clear; that while the Austrian population longs to get back into the Union, the Germans of the Union are certain to be equally anxious to get them back: hence, prudence and interest alike will press upon Prussia, as the leading state, not harshly and absolutely to refuse, but to dictate *terms* on which the Austrians may come back, whenever the dynasty will consent. The danger to the dynasty from preferring its pride to the welfare and heart-

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desire of the people, cannot be small; hence in course of time it is credible that the obstacles will be overcome.

Meanwhile, Austria herself has in hand a very difficult problem —in which more success has been attained than cautious reasoners dared to anticipate—to make Hungarians, Croatians, Serbians, Slovacks, and Bohemians co-operate with Austrians in a free, yet compact, federation. Galicians might be added to the list of foreigners in the Austrian Empire. Their case is made more difficult by the offence which Russia takes, if their Polish nationality receive recognition. Within the Hungarian kingdom, the Magyars under Batthyany and Kossuth fully conceded national rights to Croatians and Serbs; and though the problem of reconciliation was interrupted by the Austrian war of 1848-9, yet the real difficulties were quite overcome. For the last four years, since Austria has resolved to make all needful concession, no collision has arisen from the heterogeneousness of Magyars, Slavonians, and Roumanians. This is a highly important omen; it is an example that sameness of language is not essential to successful federation. Indeed, the harmony of French and German Switzerland is a far older and decisive illustration of the principle. Whenever the Austrians proper get back into Germany —whether on the death of the Emperor Francis Joseph, or earlier —it seems to follow that Bohemia and Moravia, in spite of foreign tongue, must also enter the German Union. The geography of Bohemia makes this result all but inevitable. If German institutions show themselves so plastic as to admit Bohemia in spite of the Chech language, it will then not be easy to set limits to the possible expansion of the German Union.

A federation resting on strict justice, conceding local freedom, but suppressing local wars, and uniting its military force for national defence, is economic of military expenditure in time of peace in proportion to the magnitude of the populations federated. Since it is in the same proportion energetic in the public defence, the knowledge of this constrains foreigners to keep the peace. The advantage being so great, such a federation must exercise an attractive power on all smaller communities which are in contact with it, as soon as the difficulties attendant on a foreign language are overcome. If the Bohemian language prove no obstacle to Bohemia entering the German Union, neither need any other heterogeneousness of race and language be a fatal impediment. But even when the desire of union is greatest, it may be made impossible by the imperial pretensions, not of a dynasty, but of a

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people. If Holland had no possessions beyond her own narrow soil, nothing would be so natural or so beneficial to her as to take her place within the German Union: but unless she established her Asiatic colonies under an independent sovereignty, it is probable that German statesmen would refuse to receive her. The responsibility and effort of defending distant and scattered dependencies is too anxious and too great; and to have any subject population which is not on the footing of equal citizenship is a very evil precedent for such a federation. Under old Napoleon the great powers envied England for her colonies, which were imagined to be a grand source of riches and of strength: but Germans now thoroughly understand, that they are a result of naval strength, not a cause.

From a strong Germany one very great advantage here contemplated is a security to Europe against an aggressive Russia. But for this reason it will necessarily be an offence to the more ambitiously patriotical Russian statesmen, who will do whatever diplomacy can do to prevent it. The Russians are already much mortified at the rising power of Germany. Already they pretend that it threatens their Baltic provinces, in which a sensible amount of German population is mingled. In such newspaper wrangling the bark is worse than the bite; nor is it well to make too much of it. Hitherto the diplomacy of Russia during this war has been quiet and reasonable, consistent with the belief that she wishes success to Germany, as the party injuriously assailed, and is fully aware that Germany must have stronger guarantees than French justice against a renewal of war. Still, however well affected the Imperial family, Russia collectively has long been proud of her overshadowing greatness, and will inevitably dislike any power which threatens to become her military equal. England need not fear that Germany in the future will have too easy a time of it. With Russia on one side of her, Latin Europe on the other—to say nothing of Danish resentment, which perhaps may subside—Germany will have a great task, and is in no danger of being too strong for it. Surely for England the policy is prudent and enlightened—for which we need not claim generosity—to applaud the development of the German Union, and to wish with all our hearts that it may become more and more aggrandized by the willing adhesion of free peoples.

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STEALTHY AND FRAUDULENT LEGISLATION.

Address on the Inauguration of the Vigilance Society, November 14, 1871.

PROFESSOR NEWMAN, in moving the adoption of the report, said:—I cannot rise to speak on this occasion without expressing thanks and admiration for the energy, promptitude, and judgment with which a few ladies, with little aid from men, in the year past have carried on the action of this committee, without a society or funds to fall back upon. I have heard it called the Vigilance Committee; a very proper name. It seems in the printed paper to take the name, "The Committee for amending the law where unjust to women." That is, I fear, a vast topic. It is not my desire to advance any suggestion concerning the best name, or any legal question. Having no technical knowledge of law, I cannot speak as a lawyer. I speak as an English citizen only. Without trying to define the prudent limits of action, I ask leave to dwell on the state of things which urgently calls for vigilance.

The conduct of English legislation is deplorable,—disastrous to the nation and disgraceful to our high pretensions. I say this with deliberation and long forethought. I have discerned it for twenty years as a fact; but how intense and dreadful a fact, I have felt in the two last years only. A truly feeble company are we who now assemble. Nevertheless, I feel it to be a solemn occasion, at which we ought to send forth an earnest and urgent protest to all who have ears to hear.

Of all things human and secular National Law is the most sacred. At the bidding of law we are expected to lay down our own lives, or, upon occasion, to take the lives of others. Patriotism depends on reverence and love for the native law. If the laws of a country be made unjust and foul, what reason will remain for love of country? What else will the people become but unjust and foul?

Where religion and law are identified, as in many ancient nations, if the religion be a noble one, it will gradually raise the

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people to a certain eminence. But because every national religion is imperfect, the time comes at which changes are needed; yet the religion resists change. Hence, after a time, the law ceases to have life, institutions are ossified, and the nation decays. For this reason the more modern idea of a State in which law is not stereotyped for ever by religion, but change is provided for organically, is esteemed more fruitful of ultimate benefit. But evidently all depends on the wisdom with which change of law is conducted, and on the earnest gravity of the process. In all well-ordered national institutions which allow of change in the law, discrimination is made between the more and the less important, and indeed, generally, the public enactments are graduated under different names; as the constitution, statutes, ordinances, decrees, resolutions. The utmost solemnity of forms, to give notice and full time for deliberation, are insisted on, if change be asked in the higher and more sacred law. Moreover, every lower law is treated as essentially null and void, if it be against a higher law. To vote without full deliberation is felt to be an injustice to the minority.

The first state known to us in history which achieved constitutional morality (the celebrated city of Athens) punished by outlawry and severe fine the offence of bringing in a bill for a statute against fundamental law. If the people unawares passed the bill, that did not bring indemnity to the proposer. It was his business to discover the unlawfulness before assuming the responsibility of bringing in the bill. The only right course was, first, to move the abolition or modification of the fundamental law, before proposing his new statute.

In the United States of North America, the most democratic country in the world, the constitution is sharply separated from the congressional law. Even a unanimous Congress cannot vote away one tittle of the constitution. It can only recommend a change; in which case the matter is considered over the whole country and voted for by prescribed forms. If Congress unawares passes an Act against the constitution, the Supreme Court of Law will disregard the Act of Congress side by side with the constitution, whenever the matter comes before it in a practical shape. So in the separate States, the judges follow the constitution and not the statutes passed in the State legislatures, if by accident they have come into conflict.

These Anglo-Americans have only followed out and developed the wisdom of our common forefathers, men eminently punctilious

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as to the processes of law and of law-making. In old days the English Parliament and its great constitutional lawyers regarded England as the inheritor of precious and sacred principles older than Parliament, out of which Parliament and its power had sprung; also those rights which the nation had with difficulty enforced against its kings, were treated as much higher than the statutes, which Parliament might enact in one year and repeal in another. Declaratory Law was the weapon by which they fought; asserting rights as having existed prior to statute; rights which no king might invade. The right of trial by jury, which had come down from unknown antiquity, ages before the modern parliament existed, was regarded as pre-eminently sacred. It so happens that the best educated and most law-loving community in the world, the State of Massachusetts, was put to a very severe test twenty-years ago, when Congress passed a statute called the Fugitive Slave Law, which deprived every dark-skinned man or woman in Massachusetts of the right of jury trial, and made such citizens liable to be carried off to the south as slaves, without appeal to a jury, who might have established that they were freeborn. Massachusetts did not abandon them for being her weakest citizens; but passed laws of her own to defeat the law of Congress, and justified it by the plain declaration, that to overthrow the jury-law was beyond the power of Congress, and if persisted in by violence would justify political secession—that is to say, revolution. Our forefathers felt and talked in the very same way, if a king tried to overthrow jury trial, or to imprison citizens by the mere power of the executive. Nothing but imminent public danger and supreme necessity have been held to justify the suspension of even Habeas Corpus, a much later enactment. It is only in quite recent days that, under cover of the doctrine that Parliament is omnipotent, men daringly sweep away all the sacredness of Constitutional Law, give summary powers to petty officers, magistrates, and surgeons, and equalize our most sacred rights and liberties with the most trivial matters. The late Royal Commission coolly assumes, that women who are not innocent (by which they mean, are not chaste) have no right to constitutional processes and barriers against illegality and injustice. If a profligate nobleman, or a nobleman believed by a policeman to be profligate, were seized and carried to a hospital prison and made to do rude housework—were forced to swallow mercury, and were burnt with caustic and confined in a stone cell—what

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would be thought of defending such treatment by saying, "Oh, he is not chaste." That the commission should dare to treat women as outlaws because they are (or are supposed) unchaste, and should not understand that this must bring down upon them the bitter indignation of the uncorrupt millions, is to me a startling proof how ignorant they are of their countrymen, and how great is our danger from the ascendency of such men.

It would be bad enough if rights over the body were treated as of no greater importance than some new and strange tax. We might then hope that all would be done in open day; that the country would be informed;—that the matter would be universally discussed; that time would be given to object; that a full house would attend, and mature deliberation be secured. But alas! when legislation has been concocted in some corner of the War Office or Admiralty, or by medical officers who have fixed places, any Government which is too weak to resist the pressure of the permanent office-holders can pass through Parliament anything, provided that those only are affected by the legislation who have no influence over Parliamentary elections—that is, most peculiarly, poor women. Any one who has attended a wearisome committee in which opposite opinions are very strong, where several persons talk incessantly and waste time, while some decision is urgently needed, must be aware how at last all become impatient and despairing, and almost ready to vote anything that appears somehow practical, rather than go on talking for ever. If upon this comes new and new business, what calm and sagacious consideration of it is to be expected? A legislature which sits up to midnight, or two hours after midnight, can only give the dregs of its mind to the consideration of topics however grave.

In such case nothing is commoner than to ask information of an eminent official. The minister replies as with authority, and generally decides doubtful votes; but he speaks as instructed by his subordinates, not always with truth. In the debate of 1866, concerning the Contagious Diseases Acts, Mr Gladstone assured the House (as I read) that the new Bill involved no new principle, but only facilitated the working out of the Act of 1864. He must have been deceived by one of the permanent officeholders; yet his speech can hardly have failed to exercise great weight on the House, though it was the blind leading the blind to immolate the English constitution.

Listen to the statements recently made by a cabinet minister.

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He said: "Towards the end of the last session of Parliament, when, in the small hours of the morning the reporters refused to put down any longer the half-sleepy words which many of those who were sitting up endeavoured to utter—during those small hours of the morning it was my fortune to pass the Bill which abolished the Poor-Law Board, and constitute in its place that which is now the Local Government Board." So spoke to his constituents at Halifax the Right Hon. James Stansfeld. What a picture does he hold up! Let us grant that the measure on which he congratulates himself and the country was in itself wise and good; but what of the mode of carrying it? The abolition of a very important board, the Poor-law Board, is effected towards the end of the session, while the legislators present are half-asleep, and endeavouring to utter words, but so incoherently that the reporters scorn to record them!! What avail then all the barriers against hasty and fraudulent legislation erected by our ancestors? Full notice of bills, three readings, two houses of legislation? An overworked Parliament is as helpless as an infant, and becomes the mere tool of scheming men. A series of detailed propositions, occupying many folio pages, is not truly a law, but an edict: yet of such kind are the modern Acts of Parliament. The inordinate fatigue of constructing detailed edicts for thirty millions of persons, besides the duty of controuling the Executive Government in its domestic and foreign action, and listening to interminable talk, thoroughly wears out a vast majority of the House. After midnight, how many remain? If out of 640 members there are forty present—that is grandly legitimate,—but should there be only twenty, and these twenty have stayed at the especial desire of the Government, there is nothing to compel the counting-out of the House. The vote of twenty or ten may deprive poor women of jury-trial, or enact that we shall be forcibly inoculated with any loathsome disease that may be the medical fancy of the day.

That it should be possible to pass penal law at all with a miserable fraction of the legislature (no one knows how many), is in itself utterly monstrous. To undertake so grave a duty, with wearied brain, cannot be approved in any case; but to vote away, in a thin house, all the constitutional safeguards against the unjust and precipitate action of the Executive, and that while enacting unheard-of inflictions on the bodies of women, might have seemed a malversation, a treason, impossible in England. What is the House for, if not to save us from the despotism of the Executive?

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The Roman Senate forbade and esteemed invalid any resolution made after sunset, and a thin house was a thing unknown. Every senator could be punished with fines practically unlimited, if he absented himself from a meeting without leave; yet the resolutions or decrees of the Senate were not laws until ratified by the people. What a contrast to our slovenly way of treating the most sacred rights of the poorest and feeblest—young women and girls of fourteen or twelve years of age, whom, most of all, it is a sacred duty to protect. It is enough to make one ashamed of one's country.

The American Congress is often spoken of with contempt by our aristocratic classes: but at least it tries to hinder its members from legislating with heads disordered by wine. It does not permit a single glass of wine to be served in its own dining halls. But in the English Parliament, unless we are grossly deceived, many members exhibit symptoms, which, though mildly ascribed to "heated imagination," are universally understood to be the effect of wine. Who can wonder that we have Acts to amend Acts, and cries to repeal Acts? We are not even allowed to appeal from Philip drunk to Philip sober: for we cannot be sure of ever catching Philip sober. An Act once stealthily passed, even if possibly by a weary, empty, half-sleepy, half-conscious House, requires countless martyrdom and years of agitation to repeal it, if it was passed in the interest of the permanent services, and set up a number of place-holders.

But the terrible thing is, that we see only the beginning of this infamous system of voting away the national liberties. A certain medical school has got the ear of Ministers, and exercises immense influence over Parliament. M.P.'s calmly profess to follow the advice of experts in all medical subjects. These experts do not even fairly represent the whole medical body. Again and again their favourite projects have been outvoted in fair and open discussion. But this school has its own fanaticism, and that is all in the direction of multiplying places and salaries for itself. It never proposes to remove the causes of evil, such as to keep away inflaming drink from the soldiery or the people, but only to bring medical appliances when too late. Hospitals without end it will approve, but not prevention. It must be observed that though the Royal Commission was appointed to give the Ministry something to follow, yet, when it recommended that which would have superseded the work of a number of surgeons, the Ministry postponed action.

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The continued violation of poor girls is made of far less importance than the salaries of the surgeons. The Right Hon. Mr Gladstone has hereby revealed that other minds, less sensitive and scrupulous than his, will decide what is to be presented to us for law next session. Under the pretence of stopping infanticide, what monstrosities may not be introduced.

There are other alarming symptoms. It is hard to disbelieve the report that a very eminent member of the Cabinet has declared that "even the British constitution must give way to the exigencies of modern civilization." This means that the necessity of furnishing profligate men with safe indulgence of lust is so intense, that women's constitutional rights are to go for nothing. The late Royal Commission disgracefully apologizes for the sin of fornication in men, while severely condemning the helpless girls who, at a tender age, have been entrapped or bought for the practice of which they are the victims. The advocates of this foul despotism are not ashamed nor dismayed (much less penitent) in face of the public, but are still confident in their power over Parliament and the Cabinet. These who believe they know what is behind the scenes, tell us that only two members of the Cabinet are firm on our side. And what avails their firmness in the closet, if, when out-voted by their colleagues, they publicly side with immorality, tyranny, and the overthrow of constitutional law? Unhappily, the Prime Minister, from whose moral and religious sentiment we were justified in expecting so much quickness of conscientious discernment, has warned us not to trust his new assurances recently made at Greenwich. I remember with great pain, but I cannot forget, and I think none of us ought to forget, what Mr Stansfeld told his constituents in the name of the Prime Minister, that the Royal Commission was appointed to inquire into the moral tendency of the Contagious Diseases Act. If any one does not see by his own purity of heart, that such a disgusting mode of providing security for profligates tends to public immorality, how can we in future trust him to legislate about women at all? Members of Parliament hate medical questions, not unjustly, and refuse to study them. This is a sufficient reason why no medical creed or medical operation ought to be enforced by Parliamentary enactment. But the Prime Minister appears resolved, not to repeal the evil Acts but to replace them by new Acts. He wants to compromise between the placeholders and the religious sentiment of the

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nation. There is very great danger that party-influences may enable him to gratify those whom he dares not to offend. No one can say what new bill medical ambition is concocting. Therefore, the call is strong and urgent on all with whom domestic purity, the rights of the poor, and the sacredness of the constitution are inexpressibly more precious than party-interests, to bring their funds in aid of those, who have so nobly thrown themselves into the van of battle. I do not say in what form we ought to come to their aid, whether by a new society or by reinforcing some organization which exists. This is a matter for mature consideration. But some new agency or other ought to be devised, which shall relieve them from this very unfair task, so disproportioned to their strength and means. All men who have a heart ought to join; for without sacredness of legal process, no poor woman's virtue is safe. England will hardly pass successfully through this most dangerous crisis, in which our nominal rulers have set over our necks the reckless despotism of a medical school—the pander to widespread profligacy, — unless the religious of all sects cordially unite with the masses of the poorer, on whom the tyrannical pressure falls first and heaviest.

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ON RELIGIOUS ENDOWMENTS.

Read to the Members of the Reform Club, Manchester,
12th October 1874.

I HAVE been requested to address you on the subject of Religious Endowments. The very request denotes that there is much variety of opinion abroad concerning the expediency or lawfulness of such establishments. In many controversies among good and wise men, to state a question rightly, it has been said, is to answer it. In such case, the parties are not really at variance, but they mean different things while they use the same words. Here then, in order to clear matters up, it is well to go back to the beginning, and consider how Religious Endowments first arise, and what is their original character.

As man is material as well as spiritual, he cannot do anything but at a material expense. Seldom can one deliver an address, without some one incurring expense, such as hiring a room, or travelling. However different may be the current notion of religious observances,—whether they are to consist in solemn processions, or scenic actings and other mysteries; or in festive sacrifice, or in burning incense, or in offering of "the host," or in preaching and public litany; in every case it is evident to all, that the priest, prophet, or teacher needs material funds; and the instinct of all who venerate the religion impels them to supply the need, according to their ability. From the earliest times, to provide for the *permanence* of religious worship, by building and endowing temples, was esteemed a pious act. Indeed it seems not merely an innocent, but a laudable impulse; and one might at first wonder what anyone could find to disapprove. Of course the question is not, whether that is the very best way of applying private or public money; but simply whether it is legitimate.

In the early part of the Middle Ages, many a baron by robbery and violence attained a riotous prosperity, and in the prospect of death remembered his crimes uncomfortably. The clergy attending him in his last sickness were diligent in exhorting him to make his peace with God. How was that to be done? A

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common suggestion was,—by enriching the Church. But what could he give? His castle was his to live in, but not his after his death. The customary dues, paid him by tenants on his estate, were his remuneration for political service; and would be paid in turn to his successor for like service: he had no power to alienate them. The cattle on his manor were his to give away, no doubt; so were his arms and ornaments, and other moveables: but his son or family would not be pleased by his giving these away, nor did the Church much covet them. The darling notion of ecclesiastics was to extend over all Christendom the Church's right to a tithe from all crops and cattle or fowl, according to the theory of the Levitical law. One baron after another (historians tell us) bestowed on the Church, generally from the bed of death, this right to tithe, as a religious endowment. This was a delightful gift for the Church to receive, and most convenient for a baron to give; inasmuch as he gave what was not his own, at no expense to himself. If he had tried to seize a tithe of every harvest or of sheep and geese as his own, in addition to his customary payments, he would have been resisted by force. The growing crops were not his, nor the new births in the cattle, but belonged to the tenant. The baron had no right over a single sheaf, beyond his customary dues; and over these, as already said, he had no power after his death. Hence in granting tithe to the Church, he generously gave away the cultivator's property, and bought ecclesiastical favour, which was then identified with divine approval and heavenly bliss, by a remarkably cheap process.

I do not positively assert, certainly I cannot prove, that all tithe thus arose: but it is prevalently asserted by those who contend that the tithes are a private possession of the Church, not a portion of the national property. When we ask, Do they avow that tithe did not originate in the gift of the State? they reply, Certainly it did not: the State found it existing, and acknowledged it to be legitimate; but its origin was not from State gift, but by gift of the separate barons, one after another, therefore it is private and sacred, like the funds of a hospital. I believe that historians cannot find that tithe originated in England from the gift of any King or Parliament: this gives plausibility to the belief, that ecclesiastics wormed it out of the barons as above said.

Now this form of Religious Endowment is objectionable, not because endowments, as such, are wrong, but because the baron gave away what was not his to give. The baronial Parliaments

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were not tender over the rights of cultivators, and were utterly ignorant of political economy: of course they were not aware that a tithe is a severe fine on diligent cultivation. But all this controversy is now set aside. For nearly forty years tithe has been changed into a rent charge, rising and falling with the price of wheat. The State introduced the change; it was in the power of the State to decline any longer enforcing tithe, if it discerned that this mischievous enactment was originally a usurpation. But it had been observed that on rent-free lands, landlords had screwed up rent so as to deprive the tenants largely of the advantage. For this and other reasons Parliament treated tithes as a part of rent.

Founding of Colleges is another form of endowment, which was strictly religious in the sentiment of the founder. Both in Catholic times and after the Reformation, pious founders habitually regarded Virtue, Good Learning, and Religion as intimately united, and pronounced them to be the aim of their Colleges. These Collegiate Foundations began in the thirteenth century, when the long strain of the crusades had pressed numbers of Barons to gain a supply of war-expenses by selling fields, with or against law, under the connivance of the public fanaticism. Lands, houses, and solid money, were the endowments supplied to the Colleges by successive founders. For several hundred years they became commoner, as the feudal system broke up. Wolsey began, and Henry VIII. completed, the greatest College in Oxford, called Christ Church, from the revenues of confiscated Abbey Lands. Queen Elizabeth is said to have systematically excited rich men to this among other forms of liberality, while she was parsimonious of public money. In all these cases the endowments combine religion with literature and science; and there is every reason why they should stand as they did stand, on exactly the same footing. I beg you to observe the cardinal fact, that no founder, no benefactor, in those days ever undertook from his own mind to lay down a creed in religion, any more than in science. No private man imagined, that in giving his money to promote religious teaching he had a right to prescribe what was true or false in religion, what was sound or unsound in morals, and propagate into future ages his personal opinions. This is a very modern idea. The old Catholics and the followers of a reformed creed alike understood by Religion whatever was nationally received. When they devoted revenues to Good Learning, to Virtue and Religion, they imagined no private and

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personal interpretation of these words. Equally, when Professorships were endowed, whether for Latin and Greek Literature, or, it may be, earlier for Logic, for Church Music, for Theological learning, called Divinity; then for Astronomy, for Morals, for Mathematics, and, as time went on, for teaching many other new branches of knowledge, no founder presumed to limit the freedom of the Professor. No private person was guilty of such arrogance, as to say, "Because I give funds that are at my disposal, I require the Professor to teach *what I believe*, in Astronomy, in Morals, in History, in Religion." It is true, that the Religious teacher was not free, for he was subject to the Church and the National enactments; but what I urge, is,—no fetters were imposed on his faith by the private will of a founder or benefactor. No one as yet seems to have conceived the preposterous idea, that the State is under a natural duty and necessity to enforce on future ages that such doctrines shall be taught for truth, as private persons, by will or by deed, choose to dictate. Nay, it is not even now endured in the Anglican Church. No private benefactor can enforce his private creed on the recipients of his bounty.

All European statesmen, all Parliaments, I presume, think it beneficial to the public welfare that Science, Virtue, and Religion be taught; and if in earnest impartial zeal for knowledge an individual *tie up* property for intellectual uses, the State has regarded this as praiseworthy. Therefore it has sanctioned, and the Courts of law have enforced, such devotion of property; though it is not a *natural* right of the individual to decide how money and lands shall be used after his death. Naturally, all property, all fruits of land, belong to the living, not to the dead. The dying man can bequeath what is his, but has no natural right to dictate how it shall be used. He must make his heir as free to use it, as he was himself. His power to tie it up, and call on the State to enforce his dictations concerning it, is not natural; but it is a concession made by the State in such cases as seem to conduce to the public welfare. One man has a taste for Astronomy, another for Greek literature. He who would leave or give money for his own favourite subject, perhaps would not give it if it were liable to be spent on a different subject; hence the State, to encourage benefactors, has allowed them to indulge their tastes; and custom, without any statute, established this, before the idea arose of a private person dictating a creed to his successors according to his own convictions.

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In the Reformation, religion became complicated with politics. The disastrous marriages of Henry VIII. made it logically undeniable that one of his daughters was illegitimate. If his marriage to his brother's widow was lawful, because it was sanctioned by the Pope, then his second daughter Elizabeth was a bastard; but if the Pope could not make the first marriage lawful, as Archbishop Cranmer maintained, then the firstborn daughter Mary was a bastard. Each daughter abhorred that Church which would dishonour her birth, though the Parliament and the nation accepted each in turn as legitimate. After Elizabeth turned against the Catholics who had aided to raise her to the throne, they became disloyal, disaffected, very dangerous, and at last treasonable; moreover, the atrocities perpetrated by Catholics on the Continent frightened all English Protestants. Then came the terrors of Spanish invasion, carrying instruments of torture with it, while the Inquisition lurked in the background. England was unable to bear any public celebration of Catholic worship, and of course all endowment of such worship was null and void in law. But Elizabeth infused into the Reformed National Church, or retained in it, as much of Catholicism as she dared: out of this rose a new disastrous conflict against the Puritans, with the ultimate expulsion of their ministers from the Church, and their youths from the Universities. After the Revolution, which finally dethroned the Stuarts, English Dissenters attained a legal toleration; but mere toleration did not suffice for the education of religious ministers. Pious men and women who sympathised with the ejected, established funds for libraries, colleges, and chapels, and of course did not wish these funds to be appropriated and absorbed by the dominant church; but they still had no intention of dictating a creed to posterity. The spirit of their enactments was this, that those whose consciences could not endure the fetters imposed by the ascendant ecclesiasticism, should in these new establishments find books for study, and instruction in piety. The trust-deeds for aiding a religious ministry were probably worded nearly as in the celebrated case of the Lady Hewley's fund, in very vague phrases, such as "for the support of pious preachers of *the gospel*," without defining *what*, in the opinion of the founder, the gospel was. It is known that some of the leading Presbyterians, who had been ejected from the National Church, as the celebrated Richard Baxter, softened the hard lines of the Catholic creed concerning

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the divine Trinity in Unity, and felt the necessity of freer thought than the cramping creed of the Established Episcopalianism allowed. In that Presbyterian school no creed was ever dictated by trust-deeds. As a consequence, little by little, it threw off first one, then another point of the ascendant orthodoxy, until modern Unitarianism grew up out of the Puritan root. This school boasts that its predecessors never tried to impose a creed on posterity, and insists that it will not itself be guilty of that folly. As a result of their honourable adherence to this principle, they are often beaten by their own weapons. A Unitarian founds a school, and opens the management to Christians of all creeds by the vagueness of his trust-deed. Trinitarians press in, get the management into their own hands, and exclude Unitarians. A Unitarian lady informed me that her father had thus three times been ejected from schools founded by his own money. By an unexpected decision of a judge a similar injustice was perpetrated in the case of the Lady Hewley's fund just alluded to. It was a Presbyterian foundation for the support of ministers of the gospel. It had been added to in successive generations by fresh and fresh benefactors, down to recent times, even after the Churches had become Unitarian. Some people calling themselves orthodox prosecuted the trustees for breach of trust, because the existing ministers did not hold to Lady Hewley's creed, and the Judge laid down that the phrase "*the gospel*" must be interpreted by inquiring into Lady Hewley's personal belief; that he was not at liberty to assume that she was willing to let her money support a Unitarian preacher, since *at that time* to deny the Deity of Jesus was a penal offence, *therefore* Unitarians could not now claim her fund, and that all the after-benefactions followed the fate of the original endowment. As a result, not funds only, but chapels old and new, many built up at the recent expense of avowed Unitarians, with the burying grounds which contained the tombs of parents and higher ancestry, were by this monstrous award taken away from the existing holders, and given—to whom? To nobody. The orthodox prosecutors could not put forth any claim to them. No one had the shadow of a legal right to them, when they were once taken away from the natural heirs; and, if I do not mistake, libraries and colleges established by other founders became liable to a similar raid upon them. Lord Lyndhurst, then a most eminent lawyer, pronounced in Parliament, that after this decision of the

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court, interminable litigation was in prospect; no one could now get possession of the property by barristers and attorneys, unless new law were made. This argument prevailed. Though the orthodox multitude, eager to ruin the Unitarians, petitioned in thousands against the new legislation, Lyndhurst, Peel, and, I rejoice to add, Mr Gladstone, successfully carried an Act to secure these religious endowments for the party of freedom, which then happened to be Unitarian.

We are accustomed to think of the Puritans as narrow and imperious in their creed, even when noblest in personal character; and undeniably those who migrated to New England showed this miserable weakness. Yet in England it is to me very remarkable, that the Puritans have been the consistent upholders of freedom in their successive generations, while the Independents, who at first appeared freer by far than the Puritans, have been the pernicious originators of the modern narrow-minded idea of perpetuating creeds by the private money of individuals. I am not learned enough in the history to know when this began: but, to come to recent times, it shocked me much thirty years ago, when I was living in Manchester, that the Independent Dissenters were at the same time petitioning Parliament to open the Universities to persons of every religion, and enacting the narrowest and most stringent creed for their new College near to this city. It cannot be doubted that the peculiarly English idea of *toleration*, coupled with exclusion from the national Universities and Churches, led to what may be called the *connivance* of Statesmen at the monstrosity of Individuals dictating a creed for those after them. It seemed hard to exclude them from the public establishments, and not let them have an establishment of their own, modelled in their own way. But this statement evades the true point of the matter. If freedom is to be conceded, each new generation must be as free as the first, so far as the State is concerned. The State once thought itself competent to enact a public creed in religion: apparently it no longer holds itself competent, if we judge by its conduct in our colonies: but if it still felt its own competence for such a work, that surely is no reason why it should undertake to be a universal enforcer and perpetuator of every man's private creed, if he will only give his money for it. If the principle be morally right now, it must be right always: think then what would come of it, to every old and law-abiding State. All the superstitions of antiquity would be artificially continued in existence. In India, for instance, even

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if the great mass of the Hindoo population became convinced of the falsehood and mischief of their polytheistic mythology, the immense funds of the Brahminical establishments would be sustained by the State in the hands of a few stupid or insincere men, who were willing to teach effete follies and perform fantastic ceremonies. In such case, a violent revolution to sweep away the endowments becomes a blessing. To say this, is to confess that no wise State should allow to individuals the right to perpetuate their own creed by the force of mere money. Else, but for the confiscations of invasion and lawless rapine, we might at this moment in England be artificially sustaining the worship of Jupiter, Apollo, and Venus, side by side with that of Anglo-Saxon divinities and the Virgin Mary, with new establishments of Mormonism and Spirit-Rapping superadded. The very least that the State can exact, if it permits any tying up of funds by the act of dead men, is, that the living who hold and enjoy the property shall be as free in a Religious, as in an Astronomical or Chemical foundation. A devotion of funds to propagate falsehood, is a public nuisance. The State, in its traditional indulgence to the wills of founders, never intended this. When Professors of History or Science are left free, discussion promotes Truth: Truth is good for its own sake, and very fruitful of other good beyond. But if Professors of History were bound to teach History as understood by comparatively ignorant founders, all would call the foundation a national mischief—the more mischievous, the greater the uniformity. All would see, that the State was wrong in undertaking to perpetuate the fancies and follies of individuals, and that it would be far better to disallow all endowments, than to permit the dictating what doctrines shall be taught. And this practice, as I have observed, is with us a modern abuse, which has stealthily come in, and has attained a pernicious force by the narrowmindedness of recent judges.

Neither in History nor in Morals has anyone yet thought of dictating a creed to posterity: yet in a Historical Religion, such as Christianity, History and Morals are the avowed foundations, —indeed the only possible foundations. Catholics tell us, that we must obey the Pope, because he inherits the prerogatives of St Peter. Whence is this to be learned? From certain documents, popularly called gospels. Thus, though the Catholic rests his faith on the Church, he rests his Church on the New Testament writings—that is, on certain historical documents. These are to him the ultimate basis, as truly as to any Protestant Bible-

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Christian. If it can be shown that these documents are late compositions, or have been garbled by after invention, or are tainted by erroneous morality, their power to establish the rule of St Peter, or to sanctify religion, vanishes. To prove their antiquity and genuineness belongs to History; to establish their claim to be sublime in morals belongs to Morality. The mere name of Religion must not be allowed to shelter the monstrosity of dictating to after-ages in History and Morals. By universal confession, there are many foolish and vile religions, and out of many hostile religions only one at most can be true. If the Professors of History and Morals must be left free, so must Professors of what they call Theology or Divinity; that is to say, the State must utterly refuse its aid to bind them to teach what private founders have fancied to be truth.

Far more is contained in this proposition (which with me has all the force of an Axiom), than at first appears. Consider the two great religious establishments of Ireland, one of which must certainly be, and both of which may be, propagating pernicious error. Can the State be right in enforcing that both doctrines shall be taught? Or can it fulfil its duty by the evasive plea, "We have permitted the Protestant Church *to regulate its own creed*, and we will permit the Catholic Church to do so, whenever they ask it of us"? Every one knows that an Establishment which holds a million persons—nay, half or a quarter of a million—cannot change its religious creed all at once. The errors in it are detected *first* by the foremost and noblest minds; and as soon as they avow disbelief in any cardinal point, they have always in past history been pronounced heretics, and ejected. Forthwith they lose all legal power to modify the evil creed, and all support from the Church funds. The inferior and backward minds remain masters of the churches, the colleges, the schools, and the revenues. Each new attempt to advance truth ejects the nobler intellects, and leaves the residuary church meaner and meaner, more certain to propagate base superstition, and to deprave rather than improve the Church creed. This process is visibly going on in the Anglican Church. The bishops complain that the highest intellects of the old universities refuse to enter holy orders, and that it is hard to get curates for the Church service. They scrape up a supply from inferior institutions. Side by side with this, a gaudy and contemptible Ritualism has grown up, and the Anglican Church is made a nursery for bringing back upon us the puerile superstitions of past ages.

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In conceding to the Irish Protestant Church endowments so large, while disconnecting it from the State, prudence and foresight would have reserved independence (in all pecuniary matters) for the parts of the Church—say, for every separate Diocese. This would have been no restriction of liberty, but a strength to liberty; for the dioceses would be left free to unite voluntarily and co-operate, and equally free to act independently one of the other. The vast mass of such establishments, especially of the Catholic, and the immense power wielded in them by the men who choose to inflame bigotry, make it impossible for serene and noble intellects to lead the Church on towards higher and purer truth. Until convulsion comes, the movement within has always been towards baser and baser superstitions, in every National Church known to us, whether of Egypt, Asia, or Europe. The evil is inherent in the centralization of money and power. It is not enough that the State permit a vast establishment to reform its own creed; it must insist that the separate parts be free to pursue truth, as well as the whole: in short, the State must view with a very evil eye every widely-extended and despotic organization of religion. The deeper its roots in history, so much the more pernicious is it to every nation.

And here I do not think I transgress the limits of my subject, in directing your attention to the bitter animosity of the best Roman emperors to the early Christian Church. It was not so much the doctrine which offended them, as the organization. I do not mean that any ancient statesmen understood the rights of individual conscience much better than King Henry VIII., Sir Thomas More, and Archbishop Cranmer. An average Roman officer, accustomed to prompt military obedience, was as much irritated at a Christian refusing to bow before and swear by the Emperor's image, as a harsh English magistrate at a poor man's refusing to let his child be vaccinated. "Conscientious scruples, forsooth! Your business, sirrah, is to obey the law, not to criticize it." This was the spirit which led to outbursts of provincial severity against private Christians. But the great historical persecutions, directed against the Church itself by imperial policy, turned upon its being an organization dangerous to the State and opposed to fundamental principles of Roman law. Every trade-guild in Rome needed formal permission to exist. An unauthorized company was summarily broken up by the military executive; its funds were liable to

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be confiscated. It is stated that Trajan, who is reckoned among the good emperors, broke up a company of fire-brigades, because it had presumed to exist without official sanction. Unauthorised societies, with nocturnal meetings and secret engagements, fell under dire suspicion at once; and the wider the area of the organization, the more formidable it seemed. The Church revenues were often seized, and Church buildings destroyed or taken away, as belonging to an unlawful society. But when it appeared that Christians paid to their bishop or to some distant chief bishop more obedience and veneration than to the imperial officers, the Emperors became frightened, and fear is of all passions most cruel. An empire within an empire, was to their minds unendurable. Of course I do not defend—I do not even excuse—the violences which they used. Roman military rule was in most things coarse and crude, and very fierce when resisted. But the history itself shows that their instinct rightly presaged the dangerous power to which a Church would grow, when its chief officers commanded the consciences of (perhaps) millions, and its branches overspread all the provinces of the Empire.

From the time when its organization under bishops and metropolitans was perfected, superstition grew rapidly and continuously. It is no mere sarcasm of historians, but a visible fact, that controversy on metaphysical subtleties became ever more active and fiercer, that the less rational opinion was always triumphant, and that the bishops of Rome by a sure instinct took that side of a controversy which favoured their power. The struggle for the possession of the religious endowments led to battle and bloodshed among Christians; bludgeons, carried by troops of sturdy monks, were a potent influence in ecclesiastical Councils. In all these events we see abundant reason, why the State, however tolerant of private opinion and of free preaching, should be stern in prohibiting the tying up of property to swell the power of a widely-extended corporation, dangerous because centralized. The old tale has been repeated again and again to this day. In the last fifty years Mexico has been kept in misery by the influence of the clergy through their vast estates. When the President Juarez at length passed a law to confiscate these, the late emperor Louis Napoleon,—in part to win the French clergy,—sent French armies to butcher patriotic Mexicans and impose the emperor Maximilian on their necks. And what did this Maximilian do in his short tenure of power.

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He *confirmed* the confiscations, as essentially necessary for the welfare of the State. In Mexico now the law disallows all ecclesiastical rents of land, and limits the possession of land to just so much as a church edifice requires.

History tells what fierce wars the German Emperors had to fight against the Popes for the religious endowments. Princes first committed the error (whether in ignorance or in religious enthusiasm or from crooked policy) of aggrandizing the ecclesiastical power, and afterwards suffered for the mistake. Two vile emperors have thus greatly cursed Europe, in crises at which she was shaking herself free. First, Charles of Ghent, commonly called the Emperor Charles V.—the source and head of modern political misery,—had so little piety or reverence or scruple, that he sent his general to storm Rome, who subjected the unhappy inhabitants to the worst atrocities and shut up the Pope in the Castle of St Angelo. Thereupon the Emperor, instead of setting the Pope free and rebuking his general, ordered public prayers for the Pope's deliverance. After thus insulting and taming him, he gave his whole force to crush the Protestants, and left to his son Philip the Second example and counsels of persecution which led to the Forty Years War of Holland and the utter ruin of Spain. But everywhere with the higher ecclesiastics the battle really turned on *the rich endowments:* covetousness inflamed bigotry.—The other vile emperor was Napoleon I., who also treated the Pope with summary violence, and was wholly void of religion; yet restored the French clergy for his own schemes, when France had unlearned reverence for them. *His* policy first, next that of his nephew, has enabled the ecclesiastical power to grow up again into strength, when it was all but crushed. The Austrian House, while it continued despotic, consistently fostered the Papal power: nor can we quite excuse the Prussian rulers or our own well-meaning ministries. The late king of Prussia had a great fondness for ecclesiastical management, and fancied he had a genius for it: among other things he made concessions to the Pope which have only quite of late been retracted, because they were found to be mischievous. The Frankfort Parliament in 1848 would have carried out an ecclesiastical policy as vehement as did Switzerland against "Ultramontane" influence; but the Prussian cabinet, for its own purposes, then chose to flatter "Ultramontanism;" of which they now reap the fruits. The English Prime Minister now understands that a great conflict is in prospect between the Ecclesiastical and Civil powers. The

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same will certainly happen ten times again if the civil power permit the tying up of property to aggrandize an enormous centralized corporation.

But I fear some of my hearers are becoming impatient, and saying in their hearts, "We had expected the lecturer to speak of the Anglican and Scotch Establishments." Well, to them at last I come.—For a while, the Liberation Society attracted but a fraction of Nonconformists. Now, they appear so to have rallied to it, that the Society fancies itself strong enough to impose on the next Liberal Ministry as a cardinal policy Disendowment and Disestablishment of the National Churches. What have I to say to this? Be patient with me, when I say, "They deplorably fall short of their just aim, and do not understand their own position." They forget that they are themselves in slavery to Trust Deeds, though their late eminent minister, Mr Binney, plainly told them so. They seem to assume that an individual has a *natural* right to dictate a creed to future ages, if only he will give money for it. They suppose the evil of national religious endowments to consist barely in the fact that the revenues come from a public source. But the evil depends on a creed being enforced: in comparison to this, the question, in what source the revenues originated, is quite secondary. In a steady law-abiding nation, serious and religiously disposed, religious funds are always likely to accumulate by new benefactions in each generation. If the State once allow trust-deeds to dictate a creed, the evil is ever on the increase. The first thing that the English Nonconformists, in my judgment, have to do, is to strive for a short simple law declaring every clause which dictates a creed in any Trust Deed to be *ipso facto* null and void, as contrary to the public welfare and to the principles of morality; one may add,—as never intended by the State. Every endowment would remain in the hands of the present trustees, notwithstanding such law. Existing ministers and existing congregations would suffer no deprivation. No change would be made as to the quarter in which the power lies, of electing or deposing a religious teacher. Simply a portion of freedom would be added to men honourably searching for truth, and a dangerous weapon would be taken out of the hands of the bigoted.

What has been said already will show that I do not think such an enactment is all that is wanted: but it is the first step for Nonconformists to take. Let them set their own house in order before they assail their neighbours. They cannot succeed,

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unless they have a complete unanimity of all Liberals; but many Liberals think with the Rev. Mr Binney that their trust deeds are very illiberal. If doctrines cannot stand and prevail by the native force of truth and free discussion, do they expect to nail them down by force of money? or, can they hope for any spiritual benefit from the attempt? By disestablishing and disendowing our public churches before passing a law against the creed-restrictions of Nonconformist trust-deeds, the difficulty of true reform will be greatly increased. At present, the whole weight of Irish Protestant Episcopalianism will be against it; but, before that Church was disestablished, it would have been neutral or favourable to the measure. So probably would be the Established Churches of this island now; but, if disestablished after the Irish precedent, the liberal fraction in them will be overwhelmed by the corporate instinct, which will feel the measure as directed against itself; then, in all probability, the resistance in all three kingdoms will make that reform which is most necessary impossible. To divide the Liberal party by pressing for disestablishment, is to repeat the error by which they broke up Earl Grey's powerful majority forty years ago. They do not go far enough to attain a sound principle. They cannot excite any pure enthusiasm for religious freedom. But by carrying a law to annul all creed-restrictions in trust-deeds, they will give prominence to the great and vital principle which the Germans call *freedom of learning*. Truly it is absurd for the laity to be free and the clergy or ministers to be in bonds; to expect fruitful and faithful teaching from men, who are bound under heavy penalties not to search for truth, but to conform to prescribed opinions. Every Church in the present day is sure to contain two parties, Conservative and Progressive; but the most Conservative among Nonconformists make no pretensions to infallibility. All remember the fact with which Romanists taunt them—the recency of their origin; and they are more disposed to boast, than to be ashamed, that their Church was born under the imputation of heresy and schism. Why should they suppose that their sect has attained final truth? The idea has no plausibility. All that reasonable Nonconformists, when most Conservative, can contend for, is, that no rash spirit shall be able to disorder a congregation. Now in the democratic Churches the danger of this is almost nothing. In them Conservatism ordinarily prevails, because the less cultivated minds are less active and worse informed.

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Innovation always begins with the more educated, and every congregation is apt to be a clog on their progress. Very eminent preachers carry a congregation with them, or attract it to them by natural selection; but the former process is generally difficult; so that it is unreasonable to fear lest teachers, if delivered from Trust-imposed creeds, should fail of sustaining the pastoral relation by running fast and far ahead of their flocks.

If once the fetters of Nonconformist Trust-deeds were legally removed, things would be ripe for a second move, against too great a magnitude and stiffness in religious organization. To begin with the Established Church; it seems to me every way natural and reasonable, to insist that (as above said of Ireland) each Diocese should have independent internal freedom, so that any one separately could reform itself. Of course Archbishoprics should be at once abolished. The difficulty is immense, perhaps insuperable, if the legislature have to settle who are Church members and what their relative power. I cannot pretend to know the very best method of making Religious Endowments beneficial and not noxious; beneficial in the sense in which endowments for Astronomy or History are confessed to be beneficial. But I have long seemed to myself to see simple measures which would be at least a great improvement, and a foundation for improvements beyond. First, to rescind the subscription of the thirty-nine Articles and the declaration of unfeigned assent and consent to all and every thing in the book of "Common Prayer."—Every one who knows the sharp and irreconcilable diversities of opinion and even hostilities among the clergy, ought to see that the maintaining of these subscriptions by a lay Parliament is a blunder as bad as a crime. On their removal, the Divinity Professors in the Universities would teach freely, and could afford to study fruitfully.—Next, inasmuch as the Liturgies may and must contain passages distressing to the consciences of one or other clergyman, every Bishop should separately have free power to concede relaxations, on being requested by a minister in his diocese. A vote of the Commons to the effect, that "it is hurtful to the State and unjust to the clergy, to lay penalties on conscientious inquiry," would be very influential on many bishops; especially if they had reason to fear that resistance would add power to the party of disestablishment. The new generation, lay and clerical, would then grow up freer and wiser. Each Bishop also should be

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authorised to admit as clergy or as occasional preachers in his diocese, without re-ordination, all dissenting ministers who seemed to him worthy and competent. The bishops themselves, relieved from subscriptions, would share somewhat in the new sentiment, and become more liberal. After-reforms would surely follow.

I just now alluded to the violences of Roman Emperors against Christians, especially of the third and fourth century. But their worst is small, compared to the continuous atrocities of the Catholic Church against heretics and recusants. Why? Certainly not because the Scriptures held sacred by Christians teach persecution, but because the Catholic Church was a vast organized and centralized institution, which made the imposition of its creed the paramount object. These are the two matters to which the policy of every State ought to be implacably hostile. When Protestants have purified Protestantism from the deadly sin (most unchristian, as I believe) of esteeming opinion more than character, and fostering mutual repulsion, they will be better able to coalesce in clipping the wings and drawing the talons of the Roman Church. Of course all enactments against clauses in Trust-deeds to enforce creeds, would legally apply to them as well as to Protestant Nonconformists; but the effect would be very small. Their trust-deeds give endowments to the "Holy Catholic Church" (I suppose) with no mention of a creed. I see no other mode of dealing with such a body than by jealously limiting the mass of property which a single body of trustees can hold, and enacting that each trust shall be *legally* independent and irresponsible to any authority but a civil law-court. This also would be of little effect at present, while all cling together as they do. But the strength of Rome has long lain in the fact, that Protestants foster all the seeds of her errors in their own bosom. After we have cast them out, and have established sincere freedom and mutual charity, based on universal justice, the strength of Romanism will wither, and all the pious everywhere will recognise in one another a common faith and common brotherhood.

To sum up then, I see no fault whatever in Religious Endowments any more than in Endowments for Science; if on the one hand they do not fetter the mind, and on the other do not vest a concentrated power in the hands that distribute them. I repeat: These are the two points against which the State has to guard. I believe, our old Parliaments in their laws

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of Mortmain forbade a dangerous accumulation of ecclesiastical property. That our modern Parliaments have allowed the pernicious usurpation of dictating religious creeds, is not honourable to their vigilance or discernment. Instead of the Act suggested by the award in the matter of the Lady Hewley fund, the proper measure seems to have been a declaratory law against creed-dictation. But we must thank the promoters of that Act, rather than criticise them. They did what they could. The narrowness of the English mind was chiefly to blame.

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THE DANGEROUS GLORY OF INDIA.*

From "Fraser's Magazine," October 1874.

AMBITION is a puzzling theme to the moralist, whether it be regarded from the high political, or from the domestic point of view. To some it appears that to be content to abide in that station of life in which we are born is sufficient virtue: yet if all were so minded, how could a nation move onward? On the opposite principle, if each is eager to rise, shall we not fall into the endless vices contingent upon haste to become rich? It is no complete solution to allege with Pythagoras and Euripides that there is a golden "mean;" yet, as a first and provisional step, we seem forced to accept it: and the same may be said of private political ambition. If none of us loved to rule, if to nearly every one of us exalted station were simply irksome and embarrassing, high self-denial would be needed for any to undertake the toil of government. The inconveniences of such a state may reconcile us to many of the evils which personal ambitions cause to society.

But when we look on that public ambition which impels princes and states to territorial conquest, the dreadful results of national wars lead the moralist to sterner tones of disapproval. Perhaps he exclaims, "Govern your own people better, before you aspire to extend the limits of your rule." If England were brought to the bar of judgment by foreigners who considered only that our wisdom (such as it is) is unequal to the task of governing Ireland well, yet that we have added to our responsibility the oversight of two hundred millions of Indians, separated from us by a vast breadth of continent, and a still greater oceanic distance; we might be pronounced guilty of

* 1. Address to the National Indian Association, by Mr Nowrozjee Furdoonjee, on the Personal Bearing of Europeans in India towards the Natives.

2. "The Bombay Riots of 1874." Bombay. Compiled from the *Bombay Gazette* (February).

3. The *Bombay Gazette* of April 6, 1874.

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very culpable wild ambition and monstrous imprudence. Of course we reply, with perfect truth, that neither king, statesmen, nor people ever deliberately planned from the beginning or desired such an empire. It began as a set of mercantile establishments, which took up private arms for mere self-defence: and after every success, planned only for security and for trade. The Honourable East India Company was glad to legitimate its position by accepting from the Grand Mogul the subordinate post of a Rent Collector; indeed, from the beginning to the end of its political career, it was animated by a consistent and unswerving disapproval of aggression and fresh conquest. Whence then came the long series of wars and annexations? A two-fold reply must be given. In the *earlier* stages of events, while the native powers hoped to expel us, the real cause of war lay in them. Who can blame them, for seeing with an evil eye the establishment of a foreign dominion on their soil, and fearing its further growth? But in the *later* stage, when the Company had so manifested warlike superiority, and had attained so massive a strength that no native ruler dreamed of being able to expel it, nor would voluntarily have made war on it; thenceforward the direct aggression came from the very highest English Executive—ministers or appointees of the Crown — still against the will and judgment of the East India Company, and without any cognizance of the nation.

Events were also precipitated by foreign causes. The indefensible and miserable Affghan war, undertaken in jealousy of Russia, by the will and influence of perhaps two men only—two powerful officials—was carried out in a manner high-handed in the extreme. In Europe, we regard it as highly culpable if a belligerent state march through a neutral state for its own military convenience; but in Asia we have no such scruples. For his own policy against Russia Lord Palmerston was pleased to impose a king upon Affghanistan; and for this purpose to send an army through two foreign states, Sind and the Punjaub, and to garrison certain strong places in them: then after assaulting and capturing Ghizni, we entered into military occupation of Câbool. The Duke of Wellington had disapproved of the war from the beginning, and even after our brilliant success, "wished he could see the troops safe back in India." Alas, not one in a hundred of *those* troops returned; and the second army did but march in, and out again. This disastrous war showed to the

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Ameers of Sind and to the Sikhs of the Punjaub our ambition, our unscrupulousness, and likewise that we were not invincible. Sir Charles Napier made (apparently) a war of his own devising against the Ameers; and the Sikhs, on the death of their sagacious ruler Runjeet Singh, thought that their only safety lay in invading India themselves, instead of awaiting our attack. This is the single instance in the last fifty years, in which we have been strictly on the defensive in a great Indian war; and for the invasion we were ourselves largely responsible.

There is a reason for here dwelling on a phenomenon of that war. It was made very prominent in an article of the *Edinburgh Review*, immediately after the events; but in the third part of a century the new generation is apt to be totally unacquainted with the particulars. Our first Punjaub or Sikh war was marked by four great battles, of which the first two were quite indecisive; the third was a clear English victory; the fourth was overwhelming, and entirely crushed the invading army, giving to us in turn the mastery of their country. The first of these battles, known by the name of Moodkee, was fought unexpectedly on both sides, in consequence of the English army marching unawares almost into the enemy's lines. In the evening, our troops, wearied with their march, had thrown off their incumbrances, and were preparing for supper, when suddenly they found that the enemy was close at hand, of which neither our general nor the troops had had the least idea. They were forced to resume their arms in the utmost haste, and, in spite of their exhaustion, to fight a terrible battle as they best might. They did repulse the enemy, and secure a safe night for themselves: to achieve so much was far more than might have been expected. The wonder was that our whole force was not destroyed, dispersed, or captured. But this suggested the question—How was it that we were so ignorant where the Sikh army lay? And the explanation of this was very uncomfortable—"Because none of the villagers were anxious to bring us information." On this it was remarked that, in past Indian history, when the country was invaded, whatever the reigning dynasty, the Indian peasants had always sympathised patriotically with the army of defence, and regarded the army of invasion as an enemy. Here, for the first time, as it seemed, they were either hostile to the Government, and wished success to the invaders, or at least were apathetic. Important instruction for us is suggested by this occurrence. It warns us wherein lies our true danger, to

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which we blind ourselves by zeal for military defence against Russian invasion. If we succeed in winning Indian loyalty—if the great mass of the Indian population become even as well affected to us as the Hindoos in general were to a Mussulman dynasty—foreign invasion will be incredible and impossible. Wielding then the resources of 150 millions of Indians, besides the very important aids which, in a truly national cause, the kings of the remaining 50 millions would afford us, we could have no rational apprehensions, even if Russia and her masses of population were conterminous with India; but with the deserts of Tartary, and Persia, and Affghanistan to protect us, no sane man can fear Russia, except on the secret belief of Indian bitter disaffection, and eager hatred from the Affghans. But if we are to count on this as a permanent fact, how can security in any case be possible, with or without Russia? And how can our presence in India be morally justified? The use of such an argument dishonours us to all Europe. It holds us up as a mere army of occupation in India—aware that we are spurned as intruders, hopeless of reconciling the native millions to our rule, yet resolute to go through any amount of bloodshed to hold our ground; and equally resolute to resist that influence of Russia over Tartary, Persia, and Affghanistan which, apparently to the rest of Christendom, is important for the advance of humanity. Until we renounce fears of Russia we shall, as heretofore, rule India the worse on account of these fears.

Foreigners who are jealous of England—who dislike our aristocratic and royal policy, who think us arrogant and grasping, selfish, and self-complacent—avow, when the topic of India comes up, that in the cause of political enlightenment and human progress they of necessity wish for the solid establishment of our sway in that country, seeing what was the anarchy which preceded us, and what the imbecility of the native dynasties. With few exceptions—perhaps none of importance—the powers and peoples of Christendom sympathise with our Indian ascendency, as conducive to Eastern civilisation. Ought we not in turn to recognize the great and beneficent task which devolves on Russia, in regard to a large part of Asia with which she is conterminous? Who can read the history of modern Persia without despair creeping over him for that country, unless she is to be vehemently influenced from abroad? Who can consider the vain decrees of Turkish Sultans in favour of equal law for Christians, without seeing their inability to act against the Mussulman

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population, who are their only army, the sole support of their throne? In Persia, England has done little to make herself beloved, and can never be feared so much as Russia is feared. Russia therefore alone is able to reorganise Persia by advice and by pressure. If even it were by conquest, the new responsibility would be great, the strain on her military resources very grave; and it is probable that all Europeans who are unbiased by national rivalry would esteem her rule over Persia equally beneficial as to India the English rule. Much more may the same be said concerning Khiva, and all those Tartars whose independence is savage license; who by destructive raids into Persia make vast deserts where there has been and might be thick population; and, as in the earliest times of barbarism, keep up a cruel slavery by kidnapping all their neighbours. There is no existing power on earth which can bridle these barbarians but Russia. On her the task is laid. It is at once difficult, and by no means remunerating. To be ever making jealous outcry, and insisting that our Government ought to exact "promises" that Russia will make no territorial conquests in Asia, is as impotent and undignified as it is unblushing. Did Russia or France protest when we absorbed this or that Indian potentate? Are only Englishmen incapable of seeing politics from the human and humane point of view, and rising above mean jealousies?

When *danger* to our Indian Empire is mentioned, the word suggests two widely different thoughts to different minds. One class thinks at once of danger from Russia, the other of danger from the Indian population. Yet no one pretends that from Russia any *immediate* danger impends. It is justly said that she is an ambitious, encroaching, stealthy, far-looking, foreplanning power; that as her frontier has advanced from St Petersburg to Warsaw, and from the Wolga to Khiva, so it may reach into Balkh and Kandahar, and perhaps by means of dependent princes, to the very frontiers of India, in another half century. Now when a foreign policy rests on a universal principle, it may be equally moral and far-seeing; and that it provides for the distant future, is then a praise; but when the policy urged is one of special expediency to ourselves, it is of little weight unless it supply an immediately pressing need. Mere expediency varies, and may pass into the reverse, in less than half a century, through a change of circumstances; and to take on ourselves immediate effort and encounter immediate evil in such a cause, is very unwise. If a collision with Russia

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is to come at length, we ought to husband our strength for it, not exhaust in peace the resources of war: we ought to pay off the Indian debt, not go on increasing it; we ought to win the good-will of Indians, not irritate them by new taxes, which give to our lowest officials infinite resources of oppression. To have an overflowing exchequer and well-affected fellow-subjects, not only would be our greatest security in case of Russian attack, but would make the attack as morally impossible as an attempt by Russia to conquer united Germany. On the contrary, to empty our exchequer and acquire ill-will from Affghans and Persians by invasions of their country, from Indians by taxation, from Russia by constant jealousies and remonstrance, is the way to double all our dangers. To keep up a chronic war against unconquerable hill-tribes, and make them our bitter enemies, is to prepare for Russia armies of cavalry, whom she may impel upon us without making war herself. Our Indian problem is in itself sufficiently difficult. We make it far harder if we are to have an Anti-Russian policy.

We must not count that fifty years hence Asia will present the same comparative strength of different powers as now. Vast preparation has been made for internal changes, which must take place at length. No other policy, but moral principles of humanity and sound international law, can provide for the next and the after generation. Indeed, as to Russia herself, Siberia has no loyalty for Moscow, and presents serious difficulties to an invading army; so that a disruption is always possible, and the fear of this may be increasingly distracting to that Power. But far more important is the consideration that, fifty years hence, our Indian bugbear may be, not Russia, but China and Japan, who are capable of developing a strength on the ocean fully proportioned to their strength on land. Events of the utmost magnitude may be reasonably anticipated in half a century, though we know not in what form; such as will derange all the intrigues of present statesmen concerning Asia, just as the rise of the British power makes vain the intrigues (such as they were) of a hundred years ago. Who shall say but a Peter the Great may mount the throne of China? We have taught the Chinese painfully the superiority of European warlike art; in some sixteen years, between our first and second war, we forced them to improve their ship-building more than England improved her own in three hundred

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years. They can now easily get Russians, French, or Americans to teach them all that they need; to set up manufactories of the newest weapons, to train their troops, to introduce steam engines, and build railroads. The still more intelligent and rapidly moving Japanese are likely to precede China in the Asiatic race; and perhaps may be, rather than any Europeans, teachers of the Chinese. And who knows what is about to happen in Siam, Cochin China, and other secondary Eastern countries? When the late Sir John Bowring made a treaty with Siam, the acting king consented to engross the treaty in English, and make this English copy the authoritative one, so familiar was he with our language. Who would have suspected such a thing? More than thirty years ago it oozed out that the Imaun of Muscat had Sir Walter Scott's novels on his shelves, and read them (in English) for his pleasure. Whenever that certainty of the future happens—the adoption of European arts of war by China—her inward growth will be far more rapid than that of the last century and a half in Russia. In every respect her advantages over Russia are prodigious. Her population is four times as great, her climate and soil immensely superior; her rivers are all available, while those of Russia either move sluggishly towards inland seas, or have their mouths still frozen in the north while their upper streams melt and overflow. Russia complains of vast desert spaces—("it is the distances that kill us," said the Emperor Nicolas)—but the Chinese population is compact beyond all others. Russia is bound in by ice; she has little maritime population, and this has but few chances to learn the nautical art. China has an enormous sea coast, a vast ocean, and proportionately mighty rivers. In the evident impossibility of foreseeing, even vaguely and with any rude approach to conviction, what is to be the future of the powers around India in another half century, it must be inferred that for the security of our dominion there, one and only one policy is sound—viz., to do our utmost to rule India well. The East India Company always groaned sincerely over the wars in which the Crown involved them; wars by which the exchequer was emptied, debt incurred, improvements hindered. Equally true is it, at this moment, that a warlike policy is exhausting, forestalls resources, accumulates arrears of difficulty for the future, is adverse to internal development, and makes it harder and harder to be internally strong. Chronic war with chronic deficit is a ruinous policy. The beginning of real improvement would be in con-

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centrating attention on India itself, and wasting none of India's strength on foreign objects.

If the East India Company, a century ago, could have foreseen or guessed the continuous spread of their dominion, their problem might have been dealt with far more wisely: but they coveted "appointments" for their friends' sons, as fast as it appeared how lucrative these were. This made them blind to the obviously right course. From the earliest times it has been a policy with conquerors to raise up the races whom their predecessors have trampled down; as Cyrus restored the Jews to their own land. The conqueror thus cheaply wins a host of devoted partizans. All historians praise the Roman policy of imparting the Roman franchise to such members of a conquered nation as had espoused their side and shown fidelity. A powerful party stands up thus to aid the new rule, far more rapidly than can be attained by the gradual experience of its benefit. The East India Company might have granted English citizenship by a single act to all the Parsees, and to all native Christians,—these being races marked and separate; and further might have extended the same gradually to all of every race who would attain the use of the English language sufficiently to read our literature and understand our geography. Many variations of this under minor conditions are imaginable; and many different ways might succeed, if only the right *end in view* had been steadily held up, namely, to introduce, fully and frankly, *into true equality with ourselves*, as quickly as possible and as many as possible, of the native Indians *whose loyalty could be counted on*. Our greatest difficulties depend on the want of a large and widely diffused native population faithful to our sway, and impressible to our sentiment. To administer justice, to enforce the law, to collect the taxes strictly, yet justly, and without oppression, are still most arduous to us; nay, to know daily facts, however notorious, is very difficult to our Government, when its subordinate officials have any uniform motive for concealment. All these circumstances conspire to neutralize our best intentions, pervert our rule, and multiply dangers.

The East India Company never took to heart the intense difficulty encountered by a foreign judge, who has to decide on fact as well as on law, and the consequent severe hardship on the people. An eminent exile in England (Francis Pulszky), well experienced in mixed populations, some years ago remarked, that a nation can bear a foreign king, foreign armies of occupa-

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tion, foreign commanders of its native troops, foreign collectors of revenue, foreign Councillors of State, and get accustomed to them, so as at length to murmur but little, if there be a general good will; but that to foreign-born judges no nation can ever reconcile itself, "and this," he added, "is the terribly weak point of the English rule in India." It is not rash here to censure the East India Company, when we have side by side the case of Ceylon, a Crown-governed colony. An eccentric and enterprising governor of Ceylon, Sir Alexander Johnstone, discerned the evil, and resolved to introduce trial by jury, which he carried out by gradual steps such as caution suggested. It has become a fixed institution of Ceylon, apparently without any mischief or inconvenience. When, not many years back, an English barrister was sent out to be Supreme Judge in Ceylon, the natural enquiry was made, how he could preside in Court without understanding the native tongue; which could not be acquired in a year with any sufficient accuracy. A high official, experienced in Ceylon, replied, that the juries are so intelligent, as seldom to leave much need of a judge, who generally best did his duty by confining himself to routine. That the reply had no irony in it, the present writer cannot guarantee; but it certainly showed that the jury system was satisfactory to high officials. In India no such enterprizing innovation was made, and the tribunals of judgment, so far as report goes, have not improved since the time of Lord William Bentinck.

A startling volume, concerning our Indian administration, was published by the Honourable Mr Shore, which was suddenly withdrawn from sale upon his death more than thirty years ago. One of the anomalies which he described was undoubtedly removed by Lord W. Bentinck; namely, the use of the Persian language in the courts of law; a language (said Mr Shore) which in general neither the judge nor his clerk nor the litigating parties, nor the accused, if it was a criminal case, nor the witnesses understood; and the interpreter understood it imperfectly. It came to this, that a man accused of murder remained ignorant of all that went on in court against him until at last he understood very clearly that he was to be hanged. But now that the vernacular tongue is substituted in the Court for Persian, how very difficult it remains for an English judge to know whether witnesses are speaking truth or falsehood! If self-confident, he trusts his own impressions; if timid, he leans on the judgment of his native clerk; if formal and pedantic, he believes all clear and

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coherent statements. His weaknesses are watched, and it is soon understood whether he is to be better managed by fees to the clerk, or by the forging of critical evidence, in cases for which it is worth while. Very scandalous accounts have been printed in great detail, concerning which few readers in England have a right to a positive opinion; one thing is clear, that those Englishmen who have looked keenly into the matter and dare to speak freely, believe justice to have a far worse chance in such tribunals than before native judges.

Lord Grey's ministry in 1833 had so vehement a belief in the necessity of introducing an English migration into India, and native Indians into the offices of administration, that in advising Parliament to renew the Company's charter for twenty years, they marked two articles in the new charter as vital; declaring that, rather than surrender these, if the Company objected to them, they would urge Parliament to refuse any charter at all, and take India under the king's direct rule. The two articles announced by Mr Macaulay, in the name of the ministry, as vital, were, 1. that any of the king's subjects, wherever born, should be free to settle anywhere in India; 2. that all the natives of India, in the dominions of the Company, should be eligible to every office of administration, *except* that of Governor-General and Commander-in-Chief, on a par with the King's British-born subjects. The former was of little avail, because the system of taxation and the want of roads crippled British enterprize; the latter was coolly made a dead letter by the Company, so far as the "covenanted" or upper service was concerned. A strong difference of opinion existed between the Company and their representatives on the one side, and the Whigs on the other, as to the advantage of having in India a considerable body of independent Englishmen. The Company had treated their Indian possessions as a private estate, on which no Englishman might set foot but by their permission. Free criticism of their administration, such as all Englishmen make and will make, was in their view most dangerous to authority and provocative of rebellion. Accordingly they arbitrarily exiled James Silk Buckingham from India (about 1824), assigning no reason, and bringing him before no tribunal; though all knew that his real offence lay in a printed censure, such as here we read day by day, of some Government Acts. The Company was aware that a claim of exemption from criticism would not serve their interests in England; but they opposed the free admission of

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Englishmen by another argument, which the Whigs could not at all allow. It was alleged that independent Englishmen would audaciously ill-use the natives, and by their misconduct make the English rule and name hateful. If the Company believed this (and events show that they had too clear a foresight), their duty was to construct better tribunals, and make the English interlopers fully understand that there was no impunity for lawlessness. But they were despondent, and perhaps sulky, when the Crown interfered with them; they lost the sense of responsibility and merely stood on the defensive for their own interests.

How ill our countrymen behave in India probably very few in England know, or will easily believe. The present writer first had his eyes opened to the actual state of things by the conversation of a very intelligent and widely informed indigo-planter. This gentleman had a high contempt of the Company's Courts, alleging that through the inexperience of the English judges and other circumstances, they were often or even generally incompetent for so difficult a task as judging of truth and falsehood, of right and wrong. When he first became an indigo-planter, his experienced partner laid down for him an absolute precept, "Never enter the Company's Courts!" What then was the alternative? He explained. "If a native failed to pay us our dues, we never sued him, but simply took our rights from him publicly." How so? "Well, we publicly seized some of his goods, sold them by auction, deducted our claim from the proceeds, and handed over to him the balance. Depend upon it, if you are just to the natives, they will never resist you in such a process. They know you are right, and it is much the easiest way of dealing with them." Such an avowal at once threw a new light on the bitter complaints from natives against the violent proceedings of the English planters. This gentleman may have been really and strictly just; may never have taken more than his due, and never have given cause for a native to sue him for a trade debt. But is it credible, that a whole class of men should have the habit of thus "taking justice" for themselves, and not become unjust and utterly tyrannical? The whole complication is now seen. Englishmen, accustomed to a jury and a learned experienced judge in their own land, ill endure to have their causes determined by the summary decision of (perhaps) an inexperienced and practically incapable young fellow-countryman, neither trained to law, nor accustomed to English procedure, nor able by intimate

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knowledge of the natives and their dialect to detect the truth. In a cause betwixt a native and an Englishman, each side will claim a mixed tribunal; but that implies a jury. The jury system is still (I believe) confined to a few large towns; certainly in the rural places the English are too few to afford jurymen. The doctrine of the East India Company was, that if Englishmen *choose* to migrate into India for their private gains they must accept its despotism, and be amenable to its courts; and that, alike whether the judge be native or British. This is apparently as wholesome as it is severe and simple; for nothing can be worse than the impunity of British injustice. Why then did the Company so long connive at this impunity? for we cannot but believe that they knew of lawless procedures, against which they made no vehement or manifest effort. The obvious and, it is to be feared, the true explanation is found in the habitual practices of their own officers, who from time immemorial have been accustomed to make arbitrary exactions of service or food from the natives, inflict on them reckless damage, and freely use the stick on their persons. Without first repressing such outrages, they had no moral courage to strike down with a high hand the license of unofficial Britons.

The small tyrannies of officials have been transmitted by unbroken custom to the present day, and are pointedly complained of by Nowrozjee Furdoonjee, the intelligent spokesman of the Parsees. The forced labour and seizure of cattle and other property he denounces as slavery and oppression, which is often aggravated by contumely and violence. Even to have been admitted into the Indian Civil Service, after education in England, does not save a native from petty indignities in the railway trains, in the public exhibitions, or elsewhere, for the convenience of some English official, or from the mere spirit of exclusiveness. Mr Furdoonjee tells some lamentable cases in detail; but to fill these pages from his book would alone do justice to his argument. The Honourable Mr Shore described vividly the miseries resulting from arbitrary exactions, and some of the results detailed by him are painfully instructive. When a great man (says he *) makes a progress, he is a curse to the

* Only the substance of Mr Shore's statement can be given, and that by memory; since his work cannot be obtained. A friend of the present writer twice had his own crop thus destroyed, and twice he was indemnified by the East India Company; but he remarked, that no native could have had a chance of like justice.

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country in proportion to his greatness. He travels by night and encamps wherever it is most convenient, very often upon a cultivator's field. The crops are trodden down and ruined. The larger the retinue the wider the damage. No native ever receives compensation. The great man's purveyor goes forth and seizes sheep, fowls, and other things for the use of the retinue. In fact, he seizes twice or three times as much as is needed, in order to extort fees for releasing what he lays hands on: for an arbitrary price is paid, always less than the market price, and he is careful to seize the ewes, and whatever will bring him the highest ransom. Thus the convenience of the Government is bought at great cost of private suffering, and with the demoralization of its own native agents. This is quite inevitable, under this arbitrary system of purveying. Such details are not mentioned by Mr Furdoonjee, and this might inspire hope that they no longer exist; but the main source of evil is attested by him to exist, and none but villagers are certain to know further details.

The Government *might* send urgent and threatening circulars to restrain its own officials, and *might* insert advertisements in native newspapers, and order the erecting of them as placards in vernacular dialects, to assure the Indians that forced services, arbitrary arrests, and arbitrary prices are illegal, and *must be resisted*. Until it has done this, it has not sincerely attempted to keep its own servants within duty. Mr Hodgson Pratt, late an esteemed civil servant in India, declares from his own experience that "these abuses are due to the misconduct of *native subordinates*, and that most stringent orders on the subject have repeatedly been issued by the Government and by district officers." Orders on the subject! But orders to what effect? To suppress forced labour and arbitrary purveying? We are not allowed by the facts to interpret it thus. He must mean: Despotic power has been left in the hands of ignorant ill-paid natives, under "most stringent orders" that they shall not apply it to their own gain. Defenders of the Government plead "the inherent difficulties" between alien rulers and ignorant subjects; but so much the greater energy is demanded from it in crushing the tyrannies of its own agents. One complete affair shall here be quoted from Mr Furdoonjee's address, pp. 13-14. He is narrating what happened, three years ago, at Honore, in the district of Canara, in the Bombay Presidency, before the English Magistrate, Mr R. E. Candy. Since he gives names and dates, and quotes the magistrate's decree, and can be

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officially exposed as false if there be any misrepresentation; since also Mr Furdoonjee comes to England, deputed by, and at the expense of the Bombay Association, it is every way reasonable to accept his statement as wholly accurate.

"A European officer, Lieutenant Persse, having returned late at night from a hunting excursion, and wishing to preserve the tongue of his bison, helped himself to a portion of salt from a heap piled in the Government Depôt on the pier. The watchmen, whose duty it was to protect the salt, remonstrated with Mr Persse, who caught hold of one of the watchmen by the neck and threatened to assault him. On the following day he again took some salt from the depôt, and the native watchmen having endeavoured to prevent him, he gave a violent blow and threw one of them to the ground, and ill-treated a sepoy, who attempted to protect the watchmen. A scuffle ensued, in which Mr Persse's clothes were torn. This officer thereupon prosecuted the watchmen for assault. The magistrate, Mr Candy, convicted and sentenced the innocent watchmen to fifteen and seven days imprisonment. The reason assigned for the lighter punishment (seven days) was, that the prisoner had already received *punishment* at the hands of the prosecutor, Lieutenant Persse. The prosecutor deposed that one of the watchmen had insulted him by applying to him an opprobrious epithet [*robber?*] which, he said, would have justified him if he had shot the man. In delivering his judgment the European magistrate made the following remarks: 'I have no hesitation in saying that I believe the statement of the English gentleman, whose simple word I should consider more reliable than the assertion on oath of a dozen men like these peons. And why? With an English gentleman, to lie is against his religion, and is socially disgraceful; whereas for a common native of India, to lie is the same with him as to eat his meal.' Condemning the conduct of the native watchmen who resisted and did their duty, the magistrate observed: 'If they saw Mr Persse interfering with the salt heaps, they should have respectfully made *salaams* (obeisance), and informed him that it was contrary to orders; but to call a European officer an opprobrious name, and to lay hands upon him, *makes one wonder where all respect and discipline have gone to.*"

It is not further explained wherein Mr Persse's tale was in collision with that of the watchmen. The magistrate clearly implies that Mr Persse had "interfered with" the salt, and that it was the watchmen's duty to protect it. He condemns the

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watchmen solely on the ground that the invader of the salt was a European officer! But when this officer had distinctly learned that they resisted him *in the performance of their public duty*, his renewal of the attempt the next morning was a high offence, and justified their calling him thief or robber. Unless this account is fundamentally false, Mr Candy deserved instant dismissal from the magistracy.

After reading other facts detailed by Mr Furdoonjee, one cannot wonder that European juries in all these Presidencies are alleged to acquit unjustly Europeans who have wounded and even killed natives. Upon any such outrage, the relatives or neighbourhood have been put to the expense of prosecuting the European before the High Court of the Presidency Town, where the witnesses had to waste weeks, sometimes months. By a recent Act (applicable to a certain class of cases only), they may prosecute before the European district magistrate and judge. When the Western Allies of Turkey had extorted from the late Sultan the decree that Christians should be listened to by the Cadi in cases affecting Mussulmans, the Sheikh-el-Islâm (Doctor of "Arches" for Constantinople), remarked on it, "God forbid that I ever regard the oath of a Christian as equal to that of a true believer!" Mr Candy goes far beyond him in *à priori* judgment, and so, it is to be feared, do the European juries of India. The extent of the evil is not laid before us on mere Parsee evidence, eminently respectable and decisive as we may here regard it; for Mr Ritchie, late Advocate-General of Bengal, more than fifteen years ago submitted a report to Government, commenting on the six cases tried at Calcutta in two consecutive seasons, in which Europeans were accused of outrages on natives. In five cases out of the six, he says, there was "a grievous failure of justice, *in consequence of the partiality and perversity of the jury;*" and declares "the result is calculated to render life among the lower classes of India insecure, and to engender feelings of suspicion between the races." He writes *suspicion*, but he means, *hatred* to the English race. The Advocate-General of Madras made a similar report, and Sir Charles Trevelyan, the Governor, recorded a comment upon it, in which he avows, that "it is a painful, but undoubted fact, that however obvious the guilt of an Englishman may be, justice is not to be expected in cases of this description from an ordinary Calcutta or Madras jury composed of Europeans and East * Indians." He further stated that "this

* *Mixed* Race, Anglo-Indian.

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high-handed insolence of a dominant race is the greatest danger to which a power like ours in India is liable;" and adds: *I have caused it to be made known* throughout every branch of the public service in this Presidency, and throughout the railway and other bodies connected with the public service, that I shall take immediate and decisive action in any case of personal abuse or ill-treatment of natives by Europeans; that I shall hold such conduct to be an offence, and shall punish it as such."

Excellently done; yet if the jury acquit a guilty European, what power has even the justest governor to punish them? This record, of course, is not very recent; for one cannot forget why Sir Charles ceased to be Governor of Madras. Since then similar unredressed outrages of Europeans are testified. Sir John Grant, while Lieutenant-Governor of Bengal, did something to check the violences of indigo-planters, against which there was a loud outcry. In the war of the Mutiny, the special correspondent of the *Times* made us familiar with the cruel outrages of the European stick against native servants, and the awful scarcity of white faces among the dark complexioned. The flocking-in of Europeans as engineers and "navvies," or masons, it was always foreseen by the East India Company would multiply the evil. Conscious, no doubt, of the misconduct of their own officers, the Company were aware that our lower people would be still worse. When, through ignorance of the language, they cannot be understood, they become angry and violent; and if their mistakes are laughed at, they cannot contain themselves. What is far worse, they see how insolently "their betters" behave. Nothing can restrain the evil, but the placing a severe bridle in the mouths of all the higher Europeans, especially military officers, and not excepting the higher civil servants. "Fifteen years," says Mr Furdoonjee, "have elapsed, since this matter was brought to the notice of the Indian Government, but no effective remedy has yet been provided for the evil." It certainly cannot have been for nothing that Mr Fitzjames Stephen, in his official capacity, addressed the following pointed words to the Supreme Legislature of India:

I think that one distinct act of wilful injustice, one clear instance of unfaithfulness to the principles on which our Government of India depends; one positive proof that we either *cannot or will not* do justice, or *what we regard as such*, to all classes, races, creeds, or no creeds to be found in British India, would in the long run shake our power more deeply than even military or financial disaster. . . . I believe that the

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real foundation of our power will be found to be in an inflexible adherence to the *broad principles of justice* common to all persons in all countries and ages, &c.

Mr Stephen must certainly have had before his eyes more than one "clear instance," in which "what we regard as justice" had been violated with impunity through the pride and insolence of race; but he was not officially free to add, why the evil is not suppressed. It is because we will not give effect to the "broad principle" which Lord Grey's ministry fondly hoped they had established in the Charter of 1833, that in appointments to high office, no distinction should be known (*except* as to the Governor-General and Commander-in-Chief) between the king's subjects of different race and birth-place.

The endless petty evils suffered by the Indian people in spite of our excellent "intentions" are not newly discovered and revealed. General Briggs and Mr Richards wrote lucidly and vehemently upon them, to the knowledge of the present writer, full forty-six years ago. Afterwards, the India Reform Society, for a long series of years, published valuable documents and testimony, labouring in vain to interest Parliament and engage public attention. Already in 1822 or thereabouts, Sir Charles Metcalfe wrote to the Secret Committee * a full account of the system of collecting the revenue by torture, of which he expressed the greatest horror. When a collector earns praise by the high figure of his revenue and disgrace by its deficit, each native subordinate who represents imperial sway tries to please his superior by the magnitude of his collection, and is silent concerning the violence which has enhanced it. Hence more than twenty years later, Sir Charles Wood, President of the Board of Control, and Sir James Hogg, Chairman of the Hon. East India Company, declared in Parliament that they had no cognizance of the revenue being collected by torture, and *they did not believe it!* It then needed a Royal Commission, and three years' traversing of India, to establish, avow, and lament the dreadful fact. And when one asks now, Is it still a fact? wise men reply, "No one knows certainly: one thing only is certain, that the native collectors have an interest in threatening violence, and impunity in em-

* I had this information from my late lamented colleague in University College, London, Professor Goldstucke, who had the letters of Sir Charles to the Secret Committee in his possession. He told me that Mr Kaye, in writing Sir Charles's life, had never seen them; as the secret letters were not in his copy.

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ploying it, especially *in the cause of revenue.*" It was testified to the present writer by a friend, twenty years a cultivator in the province of Madras, that every year when the taxation was to be settled, the peasant was summoned to the court to have his quota fixed, and was there kept away from his home and work, and put to expense, until—*what?* why, until he had paid the bribe demanded for bringing his name forward, and sending him home. One sees at once the infinite variety of possibilities of oppression, when mean and ill-paid men thus wield despotic power. The Supreme Government, which establishes the system, impotently excuses itself by the plea, "Alas! these native subordinates are so unprincipled!" It is more than twenty years since Mr Halliday, Lieutenant-Governor of Bengal, described our own police as a curse to the country. If a murder is committed, this is a harvest to them, for they are able to arrest on suspicion an indefinite number of persons, subject them to starvation or other hardship, until they have extorted a bribe for releasing them. How can one European, in a district which with us would be a large county—a European who does not mix freely in native society, but receives his information chiefly through his own agents—control the malversations of those agents? In 1852, a petition to the House of Commons from Lower Bengal, among other grievous complaints, stated, that by reason of the hardships inflicted on witnesses, the population are averse to testify; and, to mend the matter, summary arrest is practised on those who ought to be prosecutors or witnesses, who are kept in actual custody. But the police of Bengal is now reformed: it is put into uniform to make it respectable. What now does the *Calcutta Review* (whose writers are chiefly members of the Civil Service) say of the New Police.

Our difficulties are increased by the fact that the Police are controlled by a few foreigners [English] of different colour, religion, and language to their subordinates and the general community; who are quite curiously ignorant of the natives, have no intimate intercourse with them, know nothing of their inner life, habits, or feelings, and *cannot* (as a general rule) *understand, or be understood by, any ordinary villager they may come across.*

It is undeniable that the Police and the administration between them have made a criminal prosecution a burden of such a crushing weight, not only upon those who are connected with the trial, but also upon all the inhabitants of the place where the investigation is made, that it has become the one object of the whole population of Bengal to hush up crime, to keep out the police when possible, and, when it is not

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possible, to hush up each his own individual knowledge of it, lest he undergo the severe misfortune of being required to appear as a witness. The Police proceeds to extort knowledge from the villagers by hard usage; *in fact, by torture.* The amount of consideration which has been thrust on them lately, even the pretentiousness of their garb and their semi-military training, have conferred upon them an arrogance which, it is much to be feared, has made them bolder in the abuse of power.

This Reviewer, in his concluding paragraph, virtually answers the question above started, as to systematic torture:

> If such a Committee were to be appointed to-morrow for Bengal, as was formerly for the torture cases in Madras, is there any one now engaged in the government of the country who would not dread a fearful exposure?

Thus the *Calcutta Review*, after many years of the Queen's rule, re-affirms with severer point the complaints made by the Bengal petitioners to Parliament in 1852.

Lord Grey and his coadjutors, in renewing the charter of 1833, understood most clearly, that nothing but an abundance of black faces in the highest judicature, and intelligent Indians of good station in the high police, could administer India uprightly; hence the energy with which Mr Macaulay insisted in Parliament on the vital principle—equality of black and white in the administration. The year 1833 was the year of virtuous jubilee. Justice, Equality, Full Rights of Men, Public Spirit, seemed to have triumphed.

But the "vital" principle was quenched by the obstinate will of the Company; and when 1853 came, it was blotted out of the new Charter! A trumpet was blown to extol the specious and delusive system of competitive examination, and instead of holding the examination in India, Indian youths were expected to come to England in order to compete. As soon as *one* Indian had thus entered the "covenanted" service (Mr Tagore), a change was made, lessening the number of marks granted for a knowledge of Sanscrit and Arabic. His friend and colleague Mr Ghose, observing that, had this change been made *before* Mr Tagore's examination, Mr Tagore would not have passed, was uncharitable enough to believe and maintain in a pamphlet that this was the object of the change. He soon found that it acted fatally against himself. The number of Indians who have thus entered the service is under the circumstances not large; and, what is more, admittance does not secure them from being punished by removal to less desirable posts (as Mr Furdoonjee complains in the case of

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Mr Thakore) if they imagine themselves the equals of Europeans. Our Indian rule has often been compared in certain respects to the Roman Empire: the violent conduct of Roman officials and non-officials has indeed an ill-omened similarity; but here a curious likeness to the Roman *Republic* presents itself. In the early days, the plebeians found that it was useless to declare by law the *eligibility* of plebeians to high offices; nothing could succeed but enacting that at least such-and-such a fraction of magistrates *must* be plebeian. Events now drive us hard to the conviction that nothing else can succeed with India. If the Home Government enforce that at least three-fourths of those appointed to office, high or low, from this day onward, shall be Indians born, the existing Indian officials will find no lack of competent men. Under no milder compulsion can it be reasonably hoped that we shall hinder hatred and despair of our rule from becoming fixed in the Indian mind. Excuses can never be wanting, why natives should not be promoted. To be outnumbered and outvoted by black faces, seems to the Anglo-Indians identical with a violent expulsive revolution. But this last must come, if race-hatred grow malignant.

The question of juries cannot be settled off hand; but with the example of Ceylon before us, and the opinion of able natives to assist, in no long time even this difficulty would be solved.

But behold! all at once a new explosion alarms us, which Mr Fitzjames Stephen can hardly have foreseen in his emphatic words concerning "Creeds or no creeds;" furious riots of a low Mussulman population, indignant that their Prophet should be mentioned with disrespect in Parsee or Christian writings. It is understood that Sir Bartle Frere has formed a very high opinion of the Indian Mussulmans. Certainly very favourable specimens of them have appeared in England,—accomplished gentlemen, with high sentiment, of whom it seemed easy to make friends. Unhappily, among Mussulmans, it is not the educated and refined men who can guide public action. Islam has nothing distinctive, if it be bereft of its special enthusiasm; hence, as in Catholicism, the fanatical element easily assumes the lead, and the educated are helpless to restrain it. Our readers are probably aware, from the general press, that on Friday, the 13th of February last, a terrible riot originated among a number of low Mussulmans in Bombay—chiefly Arabs and those called Seedhees, who are described as slaves or freedmen of Arabs; both come to India as sailors or maritime workmen. They had been excited by the

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report that a Parsee had printed a native tract, in which Mohammed was stated to have had a son by a concubine. This was in a sentence translated from Washington Irving, who probably derived it from Gibbon. The fact is notorious to Mussulmans, and its mention was never before thought disreputable to the Prophet. Joined by the lowest Mussulman population of Bombay, these fanatics, unobstructed by the local police, of which Mr Souter is head, plundered the houses and destroyed the furniture of many Parsees, ruined innocent men, violently attacked several persons, and did their worst to damage and defile the Parsee temple, where they extinguished the "everlasting fire." Mr Souter and his police were active too late. He had been aware of the Mussulman excitement, and, in order to stay it, *condemned the Parsee's book, and ordered him to withdraw it!* Naturally, this did but add fuel to the flame, convincing the Mussulmans that they had been wronged, and that punishment on the Parsees was deserved. All Friday night alarm continued. On Saturday the Governor refused to call out the military, though it was manifest that the native police could not be depended on. In consequence, the Parsees armed themselves with clubs for self-defence; and on Sunday, the 15th, when the Mohammedans passed through Parsee streets to reach a graveyard, a collision took place, the Parsees believing that the coffin was a sham, and contained bludgeons. The Mussulmans certainly were armed, as expecting a fray; but this time they were overpowered by numbers, and suffered severely. On this account the Parsees in turn are blamed. Undoubtedly, some innocent Mohammedans were cruelly murdered, as must be expected when men are infuriated by the wounds and deaths of their friends. At length, on Monday, the 16th, Mr Souter called on the military for assistance, and the riots soon terminated, in spite of the rage of the Mussulmans for the death of one called Hajee Ahmed. But not so were things to pass off. An English official had condemned a Parsee tract for hurting Mussulman feelings. Why the more should a Christian tract be allowed to do so? Accordingly, a few weeks later, at Kurrachee, the Mohammedans complained to the city magistrate, Mr Gibbons, of a Christian tract, called "Reasons for Belief," which has been circulated by missionaries for a dozen years at least, and threatened him with a disturbance if he did not order it to be stopped! Alarmed at this, and remembering the Bombay riot, and the *precedent* of the Parsee tract, Mr Gibbons yielded to their demand, and gave orders as they demanded!

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Our incapable officials have thus allowed a flame to be kindled, of which they ought to have trampled out the first sparks. A perfectly similar riot took place at Bombay in 1851, of Mussulmans against Parsees, so that there was no excuse this time for ignorance of the danger. By logically extending their claim of suppression to *Christian* tracts, the Mussulmans have done a great service to the Parsees, and perhaps to us, by leaving our officials no choice but a distinct avowal that the press, platform, and pulpit must be free. But in order to give to that very valuable portion of the Bombay community, the Parsees, a full sense of security, very energetic measures are now needful. Obviously, all pecuniary damage ought to be repaid from the public funds of Bombay, if Bombay has a strictly local treasury. But this was one of the deadly malarrangements of the East India Company, that they confused and abolished all definite applications of local money, so that the tolls paid for keeping up roads, tanks, or canals, were liable to be spent in war. The local works went out of repair, and the country became liable to starvation.

Here also we see the main cause of local famines. The Commission issued by Lord W. Bentinck, of which Mr (Sir Charles) Trevelyan was the acting-chief, first revealed to us the horrible blunder of the *transit duties*, as it pleased the Company to name that which had been the *road tolls*. By converting these into duties *ad valorem*, and then appointing custom-houses to collect them, the Company caused the minor roads to be disused, and forced tradesmen to go long miles out of their way to the custom-house. The untravelled roads were quickly overgrown with jungle, and utterly lost even to memory. Forest and swamp were interposed between the crops and the population that needed them. Trade was crippled, and the whole country impoverished. If an evil genius had desired to create famine, says the official report, he could hardly have done it more ingeniously.

A still worse cause of famine is the non-repair of ancient canals and tanks. This has been long notorious. General Sir Arthur Cotton took advantage of his high station, before the railway system was decided on, to urge on the Government the essentially prior claim of canals, annicuts, and tanks. Secure abundant crops, said he, for your trains to carry, before you make railroads. Heaven and earth are alike propitious in India; the soil is magnificently fertile, the sun is glorious, the clouds never fail of rain in the yearly average, but the rain falls in special months. If the water be stored, it is abundantly sufficient; if it run into the

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ocean in the flood-season, the crops may fail for want of it at a critical time. Private settlers who have been able to afford the expense of a one-or-two miles canal and a very cheap tank, testify that they had an overflowing supply of water for themselves, and plenty to give away to their famishing neighbours. Even where there is a public tank, the poor natives suffer from mean native officials, who do not distribute the water by any fixed rule, except the rule of bribery. Sir Arthur Cotton lives to see and deplore the grave error which the Government has committed in its whole railway system. All prudent persons who knew even in outline the condition of India, easily saw what India needed in roads. Mighty princes travelled in a palanquin, borne on men's backs, and accounted four miles an hour a great pace. Bullock-carts with heavy goods barely averaged three miles an hour. The country roads, from which the Calcutta market is supplied, are principally jungle-paths kept open only by the trampling of bullocks, on whose backs the market produce is carried. To such a country, a train running twelve or fifteen miles in the hour would have been an enormous step forward; and a road and engines adapted to this low speed could have been made very cheaply, and would infallibly have repaid its expenses. More roads by far could then have been made simultaneously; and (in American fashion) every road which had large success would be rebuilt for quicker and more constant traffic. Tramroads with animal power for the rural parts, metalled to resist as far as possible the growth of weed, were strongly advised; but the public prints tell us nothing of them. Evidently the Queen's Government has been seduced by military considerations to neglect the canals and tanks, which in old days secured India from drought and famines, but went out of repair through our inattention or during the earlier time of trouble. Very expensive railways have been made, chiefly by English capital, and with an English guarantee of interest. In consequence, probably not one railway in India pays its expenses. The loans contracted for them are called loans for Productive Works; but the works are not productive in the sense of being remunerative. Canals and tanks are understood to pay never less than twenty per cent. These, and the establishment of inviolable local treasuries for keeping all local works in repair, seem to be the first material aids needed against future famines.

But let us not deceive ourselves! India needs to be thoroughly reorganised, if the English rule is not to end in hatred, blood,

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and ignominious expulsion. The Marquis of Salisbury has now a noble opportunity. The Indians honoured his former short administration, and deeply regretted his removal on account of a difference with his colleagues on a matter quite remote to India. His successor, Sir Stafford Northcote, had the credit of completing his policy, and confirming the throne of a Rajah which had been threatened by a deplorable error of a ministry called Liberal. Sir Bartle Frere has taken the lead in proposing a carefully detailed system of representation which shall enable the highest authorities to know local facts from the official information of the people themselves, and to delegate to them just so much of local activity as they may be presumed capable of exercising. To democracy, as acted out in our English colonies, Sir Bartle expresses strong repugnance. It does not appear that any of his principles can fail to approve themselves to one who, like the Marquis of Salisbury, joins high intelligence and noble sentiment to Tory opinions. But it may be, that something simpler will approve itself to him. Moreover, significant words uttered by the Marquis, denote that he sees the insufficiency to us of those natives, who, however clever and well-educated, are in rank commoners, and seem to the natives denationalised. The French have found that Algerine Arabs can only be ruled through their own chiefs. Sir John Malcolm, Lord Ellenborough, and other eminent men have discerned that British supremacy must be exercised through the princes who are venerated in India. As it has been energetically said:* "We want the native princes, much more than they want us. We want them for the discipline and education of two hundred millions of Asiatics. We can instruct and manage the two hundred princes, their families, and followers; we cannot sway the millions without the aid and good will of their natural leaders." It would seem, that this is the lesson which the existing Civil Servants in India are the least willing to learn: a very energetic and independent Indian Minister is needed to enforce it on them.

Let us hope for great energy from the Marquis of Salisbury. It is not for private Englishmen to have a decisive judgment as to what details of organisation should be introduced in India; but we may respectfully and urgently represent that *time is valuable.* Every year that we delay, evils become more inveterate and hatred accumulates. To train India into governing herself,

* Quoted from the pages of Major Evans Bells, pp. 57-59, "Our Great Vassal Empire."

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until English advice is superfluous, would be to both countries a lasting benefit, to us a lasting glory. But if we are merely to unite all races into a single India by railroad and telegraph, to teach our mechanical arts and our arts of war, and by insolence of race incur that hatred which Austrians incurred in Italy, our glory will be turned into shame, and a frightful calamity will fall on England.

POSTSCRIPT.—This article was out of hand in the first days of June, and was expected to appear in the July number. In the interval, the Marquis of Salisbury has spoken concerning the Bombay riots, with a decisive rebuke on the conduct pursued and principles avowed by Sir Philip Wodehouse, Governor of Bombay. Before it was officially confessed that the popular accounts were true, mention was here suppressed of Sir Philip advising the Parsees *to defend themselves*. Such weakness in an English Governor seemed scarcely credible. But now, what indemnity do the Parsees receive? Apparently none. This cannot give them a high idea of English justice.

According to our law, the damage done by a street riot must be made good by the local community. The older principle of frankpledge, making many responsible for the acts of one, is recalled in actual war; and it is not unreasonable wherever violences are inflicted by sharply marked factions. On this ground, if a riot be raised with a religious war-cry, it appears just and expedient to demand reparation from the whole religious community. The respectable Mussulmans would exert themselves far more energetically to control their own fanatics, if they knew that the legal consequences of outrage would fall upon themselves.

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NINE REASONS AGAINST THE SCIENTIFIC TORTURE OF ANIMALS.

1. BECAUSE it cannot be justified without justifying the scientific torture of men. To torture a man is not wrong on the ground that he is intelligent or immortal, but only because he has a sensitive body: and the same is true of all vertebrated animals.

2. Because it cannot be practised without an immediate hardening of heart to students who grow up under it, and a spreading demoralization in the community.

3. Because in particular it becomes impossible to punish boys for indulging their boyish curiosity by cruel experiments, when philosophers indulge their philosophic curiosity by experiments prodigiously more cruel. So too, if a philosopher may try how many minutes it takes to bake a dog to death, or what amount of torture suffices to alienate his affection, rude men cannot be punished for trying which of two animals has greater endurance of wounds.

4. Because a medical degree is at best a test of intellectual attainment, not of gentleness, patience, and wisdom; and since one heartless man who has taken a medical degree can torture in living death tens of thousands of dogs, cats, and rabbits, no licence of torture can safely, wisely, or justly be granted to any one by virtue of his degree or station.

5. Because the increasing use of more and more artificial apparatus for ingeniously torturing our innocent, helpless, gentle, and imploring fellow creatures has been accompanied with an increasing tendency in the medical profession to approve of and promote artificial impurity in the blood and in morals; *cruelty*, *recklessness*, and *impurity* going hand in hand; so that we are threatened with demoralization of a complicated order from the profession which ought simply to minister to health.

6. Because it cannot be proved that any truth of science worth knowing is not attainable by legitimate observations and experiments which involve no cruelty, and especially by observations and experiments on human beings, with their full assent.

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7. Because in particular it is denied by competent medical authorities that the circulation of the blood and the function of the nerves were discovered by vivisection; while other eminent persons have avowed that this cruel practice has perpetuated error and distracted students from truer modes of discovery.

8. Because it is not even pretended that the cruelties aim directly at the relief of human suffering. Avowedly they aim at science, that is, at the gratification of curiosity; any relief to man from it, is only contingent and barely possible, and to judge by results, may rather be called a fiction and a fraud not pious.

9. Because Christendom has long since been taunted by the nations beyond as the Hell of Animals, and Christianity must be eternally and fatally disgraced, if nations called Christian allow the perpetration of these heart-rending enormities under any pretext whatever.

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REORGANIZATION OF ENGLISH INSTITUTIONS.

Lecture in Athenæum, Manchester, 1875.

ATHENÆUM, MANCHESTER,
Friday, October 15th, 1875.

LADIES AND GENTLEMEN,—I have chosen a formidable title for my lecture this evening. I hope I shall not weary you. I cannot be short and summary on so great a subject. I would rather speak than read: but I then should not be concise enough. I shall have to set forth the greatness of existing evils, in order to show the necessity of new organs. I beg you all to remember that when skill in a workman makes up for bad tools, it is at a vast expense of labour. The superiority of civilized to barbarian work turns chiefly on superior tools. Every prudent manufacturer seeks for the best machinery; and augurs that what is simple and old-fashioned ill competes with what is new and more elaborate: so too is it in political organisation. For the permanent welfare of a population which grows in numbers and complexity, its social and political organs must also grow—that is, must become more numerous and complex, however simple in principle.

But since William III. became king of England, the Parliaments of Scotland and Ireland have been annihilated, and no subsidiary organs have replaced them. For 150 years we were so busy with wars, Continental or American, that our domestic institutions went into decay; India at the same time fell into our embrace, an enormous incubus. To subserve base intrigue, our boroughs were crippled and degraded; nor have they ever recovered their ancient powers. Parliament meanwhile is immensely aggrandized and immensely overworked. A debt of 800 millions was contracted by wars, and very little of it has been paid off in the last sixty years, though full forty of these have been years of great prosperity. Until centralization is admitted, permanent debt is not incurred. Our population is four times as great as William III. knew it; yet the people are more than ever divorced from the soil and cramped into towns. Notoriously

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during war our Parliament is incapable of domestic reform. Lord John Russell, with actual tears in his eyes, laid aside his intended Reform Bill when he saw the Russian war impending. No wonder then, that our warlike period of a century and a half under a dominant Parliament was ruinous to our social state. Since the peace with France, serious efforts have been made for reform in detail, especially in repealing laws which ought never to have been enacted; vast efforts also to obtain a miserably small amount of organic reform. Things might be *far worse;* yet looking to the intelligence of the age, the advances of foreign nations and the energy of our own people, very many think that things might be *far better*; and therefore *ought* to be. But I add, our dangers from India and Asia are great and ever increasing; yet Parliament is unhelpful, and Ministries postpone everything that *can* be postponed. No great move seems possible, except after hideous calamity. Can this be a wisely ordered Constitution?

The reforms carried by Lord Grey in 1832, by Mr D'Israeli in 1867, have been exaggerated to the imagination by the long struggle needed to get them. Lord Grey destroyed many rotten boroughs. Good; but the chief positive change in each case was to extend the Parliamentary suffrage to new electors. Even so, the extension is very incomplete. The peasants have no vote, nor have wealthy and intelligent women; and when it is proposed to admit peasant householders, Whigs as well as Tories see grave objections; nor can I blame them. The last extension of the suffrage has hitherto done that which was predicted;—it has virtually sold us into the hands of the richest men. Even the largest of the new constituencies consider chiefly who are their most liberal neighbours—*liberality* being the virtue which common minds best understand: hence the local rich, if ambitious enough to compete, gain the elections prevalently, and this makes some of the judges look askance on liberality. To have built almshouses or to have distributed coals is a highly suspicious act: it may soon be accounted virtual bribery if candidacy follow. Indiscriminate generosity may become a crime, even when it is unconditional and without political professions. If we were to extend household suffrage to the rural districts, elections must be still more expensive. Already it is only by rare exception that a man of very modest income, however independent, can aspire to sit in Parliament. Meanwhile the suffrage is of little value to us, if among several candidates not one excites in us a particle of enthusiasm.

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The mode also of taking votes is fundamentally vicious, and gives scope to mischievous intrigue. If one seat is competed for by three condidates A, B, C, of whom A and B are alike far more acceptable to the constituency than C, yet by the splitting of votes between A and B perhaps C is elected, though he would be rejected decisively, if the question were proposed, pure and simple, "Will you have C?" The system of *plumpers*, when there are two candidates, equally fosters intrigue and uncertainty. The only plain and fair way is to divide the constituencies so that each may have but one representative, and then make them vote *for* or *against* each candidate *separately*. Whichever of the candidates has the greatest number of affirmative votes is evidently the least unacceptable to the constituency.

To disfranchise all, because some have been bribed, is truly wonderful, when the pure have no power whatever to restrain the impure. To unseat a member because an ardent friend or even agent has bribed, exposes him to ejection by a secret enemy who pretends friendship. Surely it needs to be shown that the candidate connived, else it suffices to strike off from his list the number of votes illegally won. But I shall, before I end, suggest a far shorter and more effectual remedy for all the evils of our Parliamentary elections.

Probably all of us agree that the nation collectively has a right to *the best government*, legislative and executive, *which the intelligence of the age can afford*; also, that only when Power or Privilege conduces to good government, ought Power or Privilege to be held by individuals or classes. These are among the AXIOMS from which I reason. Yet since the word Privilege, in a lecture on Organic Reform, may suggest to you the House of Lords, I at once drop a few words on that topic. I have very long believed that that House ought to be reformed, and I have more than once printed a scheme for *so* reforming it, that England may become proud of the House. But, whatever the cause, I find English Reformers positively determined not to touch the topic. Therefore I have resolved this evening to omit it. Yet, before I close, I intend to make one brief remark on this subject.

In order to obtain the best legislation which the intelligence of the age admits, the first requisite is, that intelligent, upright, wise men be elected; next, that they shall legislate with fresh and clear minds, not wearied out with overwork, not distracted by topics too numerous, not heated by wine, not sleepy from the hour of the night, not hurried by the whipper-in of the party.

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Nay, how is any party-influence consistent with the solemn duty of a legislator? He does not, indeed, like a juryman, take *oath* to give a true verdict; yet he is not less urgently bound in conscience to vote for the right and the just. The juryman's unjust verdict may make a single life or a whole family miserable: a bad law, such as very many of our laws have been, may ruin thousands of families, and worse, a bad vote of Parliament may entail a horrible war. How any member of Parliament can regard himself conscientiously pledged to vote with a party I never could understand. A right organization of the United Kingdom would destroy Party Legislation; but, alas! Party Legislation, under the specious name of Parliamentary Government, is exactly the thing which our existing Parties glorify, and uphold as the essence of English wisdom. None of the Reforms hitherto put forward touch, or pretend to touch, this cardinal mischief.

As a broad basis, to justify a large change, you must allow me to set forth at some length numerous undeniable facts. The business which, session after session, comes before Parliament, is overwhelming in magnitude. Every year, from mere want of time, numbers of half-advanced bills are arrested, with much labour and expense lost, often with much hope disappointed; hence the phrase *Slaughter of the Innocents*, has been stereotyped. Long hours of talk are given to a few measures which excite party zeal, or concern the pecuniary interests of the powerful, and but scant time remains, in which other measures are scuffled by, with very insufficient debate. This is no accident; it cannot be called an abuse: it inheres in the routine of the system. As a natural result also, measures of the utmost importance are decided by a late vote—even after midnight—and in a thin house. Attendance of members is not compulsory. *Forty* suffice to constitute a house. Forty! say one-sixteenth part of the whole. Indeed, if there are but twenty, and they choose to connive, then no one demands that the House be counted; so that any number, however few, can pass valid laws—even *penal* laws—affecting our liberty and our honour; and the thing is done—it is no mere possibility. Penal laws *are* thus made, and whatever indignation they cause, yet, once passed by trickery, they are very difficult to repeal. Numbers of Bills become law unknown to a majority of the House; indeed, the topics on which the members have to vote are so various that few can possibly understand them.

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This reconciles so very many to vote as a whipper-in requests them. The Acts are called laws, but most of them are administrative edicts, setting forth, not broad clear principles, but numerous minute details, very difficult to grasp collectively and appreciate. Instead of all citizens knowing the laws which they have to obey, it is an arduous and special duty to know just those which are most needed. The Acts are often of immense length; some have two hundred or two hundred and fifty clauses, and fill twenty or thirty folio pages. Amendments introduced into a Bill are apt so to mar its unity that the judges themselves fail to understand it when it comes forth as an Act. Hence nothing is commoner than Acts to amend Acts. Who can deny that a grave internal reform in the procedure of Parliament is needed?

An internal organization used by some Parliaments would much lessen these evils. If the House established standing committees for the leading subjects, selecting each committee and its chairman for special acquaintance with the questions concerned, every measure which is allowed a first reading might be referred to the appropriate committee, who would lay before Parliament a report with reasons. After that, discussion would be more concise and more profitable. The chairmen of committees would virtually superintend, as ministers are now expected to do. This perhaps is precisely the reason why nothing of the sort is proposed. Ministers covet the credit of conducting legislation, as political capital and as a means of patronage. Standing Committees, appointed without reference to party, would spoil their party schemes. Permanent able chairmen would check their ambition disagreeably.

But here I come to another and a very great grievance—the fact that executive ministers have any legislative place at all. To unite executive, legislative, and judicial power, is the definition of the most complete despotism, such as in the worst times of India or Rome. The Turkish Sultan does not claim judicial nor yet legislative power. An Arab Chieftain accepts the customs of his tribe as a fact, and does not dream of legislating, though he is at once administrator and judge. The qualities which make an able administrator in the executive government are so different from those needed by a legislator in a popular assembly, that they can rarely be united in the same man. Our system excludes even the ablest man from our ministry, unless he has (what is called) a "power of debate and of reply," to

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which readiness, fluency, and ill-nature signally contribute. But the deepest reason against this plurality of functions is, that the duties are essentially inconsistent. The elected legislator owes candour and openness to his constituents, but the minister is pledged to secrecy. He has undertaken duties to his colleagues which forbid freedom and truthfulness in Parliamentary discussion. Scandalous to say, at present it is a received principle, that, if out-voted by his colleagues in the Cabinet, a minister is bound to argue publicly in favour of that which he opposed privately, and to pretend approval. This undermines public honour, and sanctions ministerial hypocrisy. Moreover, the Executive, by claiming the initiative in legislation and pre-occupying the time of Parliament, have degraded the mass of the House, who are now called *private* members. It is the very policy whereby Augustus Cæsar reigned despotically under the cover and name of the Senate in Rome. The relative position of the Executive to Parliament is reversed by it. As the old Roman Senate used to set the policy, and entrust the execution of it to the consuls, so ought Parliament to set the policy now, and give *instructions* to the Executive. Such in theory are all Parliamentary statutes. Parliament passes them; ministers and judges have to enforce them. In theory the legislative power is supreme: the executive and the judicial powers obey it. Our constitutional lawyers talk grandly of the plenary supremacy of Parliament. But the Executive, here, as so very often elsewhere, has grasped at a double power, and does not relish subjection. Once it tried open defiance, now ministers are generally too prudent to talk high, yet they have a sharp scourge for Parliament, if it dare to act the master. By *dissolution* they can inflict on every member a pecuniary fine, varying from £500 to £3000 or £4000, with contingent loss of his seat, if a vote be carried disagreeable to the ministry. Lord John Russell called it a *penal dissolution*, when in 1856 Lord Palmerston inflicted it, in punishment of the vote which censured our bombardment of Canton, a bombardment executed without declaration of war, without communication with the Home Government, or even with the Chinese Emperor. The censure fell principally on Sir John Bowring; but a Prime Minister does not allow Parliament to censure one of his subordinates separately, especially for conduct towards foreign powers. This would entail *personal* responsibility for making a war; but they choose to have their responsibility only *collective*, and thereby nominal.

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To this end they construct a trade union, unknown to the laws and constitution, they call it a "cabinet:" it virtually supersedes the Privy Council, which they have perverted and degraded. Of old they used to sign their advice as Privy Councillors, then the Sovereign could make each responsible. In or out of office they bind themselves now to collective action against the Queen, and against Parliament, on such a question as "Who shall be Prime Minister?" In *fact*, if Parliament firmly control them, they make a collective strike, and dictate the conditions on which alone they will work. Such are the arts by which they prevent Parliamentary government from growing into a reality. Since each faction plays the same game, Parliament is paralyzed, and will be so until ministers cease to have double functions.

It is pretended that the dissolution of Parliament at the will of a minister is a reasonable constitutional mode of allowing the country to declare its will on a special question. If a plebiscite were sincerely desired, the way is plain. Do not dissolve Parliament, but require of every constituency to vote *Yes* or *No* on the matter under debate, as: "Do you approve of the Chinese War?" But that would not at all have suited the minister. He wanted to punish the members for their vote. He did not desire to risk double defeat by a plebiscite. He knew that the Radicals were so hot after what they called "Parliamentary Reform," that they would not elect on the issue of the Chinese War; and when, by affecting to favour Reform, he had got a new House unpledged concerning war or peace, he scornfully declared that of course the electors had voted solely on the question, "What Prime Minister shall guide the destinies of England?"

Now I need to insist, that this stifling and confusing of the public voice is no unfortunate accident. It is systematic. It recurs at every general election, as a result of that usurpation, or *coup d'état*, called the Septennial Act, which more than anything else takes the guidance of affairs out of the hands of electors, and makes elections a game of chance. Few of us keep in mind the utter illegitimacy of that usurping act which still oppresses us. Parliaments used to be elected year by year. Because Charles I. had dispensed with Parliaments for many painful years, the House, to guard against the recurrence of this royal misconduct, passed a very stringent law which, in compliment to Charles II., was softened into a new enactment, that Parliament shall never be intermitted for more than three years. This was strangely

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interpreted to mean that each Parliament must sit three continuous years; so triennial Parliaments became the rule, until a Parliament elected for three years voted that it would sit *seven!* Such is the Septennial Act, which is since nailed down upon us permanently, though the reasons pleaded for it were transitory. As legitimately may the existing Parliament vote that it will sit twenty-one years. There is little chance now that any Parliament, except under terror, will go back to the three years' term, if it be claimed separately. It would not please ministers so long as they can hold the scourge of a dissolution over the members; and it certainly will not please the members individually. As things now stand, at every general election we choose men to be our supreme authority for seven years. The moment *after* they are elected, they are for that long period our complete masters. We may humbly petition, or we may clamour with irregular demonstrations; the vassals even of the Turkish Sultan may do either. But *before* the election, in providing for seven years, topics far too numerous crowd on each constituency. Even those who desire the same measures range them in a different order of value, so that they are liable to be split into small bands with different flags, or, to avoid this, they sacrifice all measures but one or two. In this way, Extension of the Suffrage, with perhaps the Ballot as a postscript, became the favourite ticket with Reformers, as soon as the abolition of the Corn Laws was gained. Conservatism then, by opposing and delaying as long as possible the most popular of the national demands, keeps the Parliament irresponsible to the People, just as are the Ministers to the Parliament.

A stable despotism, like that of Russia, propped by severely trained officers of departments, has many solid advantages for the lower people, as indeed Prussia has well shown, from Frederick the Great downwards. Such a despotism dares to act against the aristocracy and the rich for the public good. But the despotism of an English ministry is so short-lived that it has no permanent stake in the country. I compare its despotism to that of a Turkish Pasha. Its own stability is the paramount object of its common interest, and it knows itself to be eminently *un*stable; hence it is the most timid of political clubs. It dares not to look far forward; it has to manage for the moment. It dreads to incur enmity with the powerful. It cuts down its legislative proposals, not to offend the squires, or the Church, or it may be, the Cardinals, or, not long back, the West India planters, the

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East India Company. Unless some grave national movement drives it on, it thinks most how to linger in office, not quite ignobly. "Rest and be thankful," is its advice, except when political capital is to be gained. For any great measure, as Earl Russell said, a ministry needs a popular gale to carry the ship of State over the bar. But united national enthusiasm cannot come every day: Conservatism knows that perfectly well. We necessarily fret out and waste our energies in many different directions, chiefly owing to the seven years' term. Hence all our reforms, working against a stiff current, sail over the bar fifty or one hundred years too late. Martyrdoms innumerable have to be made, and attested in blue books, before Parliament can discover that *something* must be done; then, like a despotic prince who finds business too tiresome, it gives itself over to a favourite minister, and makes him for the moment despotic in its stead. Believe me, I am not blaming the individual members; it is the system which overpowers them and condemns itself. The mass of business is so vast that every member is helpless. Unless you lessen that business, all reforms are delusive. If you overtask Nature, Nature will revenge herself. From wearied brains you will not get vigilance, discernment, and wisdom. In average sound intellects you will not find wide and various accomplishments.

I must ask you to consider in detail the duties of this hard-worked house. First, it has to control the action of the whole Executive Government, central or local, and to protect the public from the undue use of Executive power. Next, it has the sole right to direct the public taxation, and apportion the proceeds to definite purposes. Thirdly, it has to control the action of the ministry towards foreign powers, which includes treaties, alliances, and possible war. Fourthly, it has a similar function towards colonies and military posts, the army and navy. Fifthly, it is responsible for all India, with a population of two hundred and forty millions, and for the action of the Government alike towards Indians and towards foreign powers around India; and it is the only court of appeal to Indian princes who believe themselves wronged by the Queen's representatives. Sixthly, for nearly everything that needs expense, the ministry has to gain leave from Parliament. This is a very large head. Seventhly, no other authority can repeal bad law, or enact new laws for the general public. Eighthly, what are called *Private* Bills—that is, local or personal—are an enormous item of ordinary legislation.

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Ninthly, it ought to review our hereditary institutions and perpetually reform them, especially those which are founded on conquest, so as to harmonize them with universal justice. But, for this last arduous duty no one has time or energy.

It has been asked again and again, What business has Parliament with any Private, that is, Local Bill? I lately read that in the last session 96 General Bills were passed, and 256 Private; which at once shows how immense would be the relief if Parliament were rid of the latter. It is seldom that any Chamber, Board, or Court is willing to lessen its business; for this always appears to be a parting with power. But here, no real power will be given up. Whatever the local authority that relieves Parliament of Private Bills, a Parliamentary *confirmation* will be reserved, implying a contingent VETO. No severe struggle therefore need be anticipated from this cause, if the matter were gravely taken up. The question then arises, *What* local authority shall play a subsidiary part, and exercise the powers of a local Parliament?

To guide us in the reply, let us look back to the past of England, and also across our coasts to other nations. In the past our chartered cities and legislative courts of our shires were in activity before Parliament existed. They then taxed themselves at their pleasure for all local purposes; but now, lawyers have ruled that they cannot do so except by permission of Parliament. *Then* they were the source whence Parliament drew its authority: *now* they are made out to exist and move, only by life derived from the central organ. Two centuries ago, each city kept at pleasure "trained bands" of its own, of which its Mayor had the command; now, a Minister in London is to hold everything military in his hand, even volunteers. The municipalities were first stripped of power and corrupted for centralized intrigue; next, when undervalued by ambitious men, their elections were managed in pothouses for personal objects, or elsewhere through malversation of the Crown were invaded by a local clique; finally their work was derided and despised, and their weakness used as a pretence for weakening them still further. The old institutions of the shires are known only to students of ancient law: they have been over-ridden by justices of the peace, county lieutenants, or other functionaries. Two out of three Parliaments have been destroyed. From this general decay of local institutions centralization has grown up, so that we walk in the fatal steps of France, though following at a timid distance.

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In contrast, look first at Germany. For ages she had, and again she has, a central legislative organ of the empire; but this never superseded very respectable subsidiary Parliaments, each appropriate to a smaller kingdom,—Hanover, Baden, Brandenburg, Saxony, Bavaria, Wurtemberg, Austria, Silesia, Moravia, Bohemia, &c. Look again at Switzerland. Environed by ambitious neighbours far superior in power, her institutions have well stood the severe trial of time. She has her central Diet and Ministry vigorous enough; but also in her several Cantons she has local legislatures, each with well-trained soldiers, simply because every man is bound to learn the use of arms, as Englishmen used to be; therefore they need no standing army. Free Switzerland is respected by all and is feared by none. Italy also has local legislatures which belonged to independent states—Sicily, Naples, Piedmont, Tuscany, and so on, besides her National Parliament. Spain is similarly made up of constituent kingdoms which have so keen a sense of their local rights that the statesmen who desire Union are somewhat afraid lest the limbs be too powerful for the centre. In Hungary notoriously the national spirit has been maintained for three centuries and a half against an unscrupulous and usurping dynasty solely by the independent energy of the local institutions. The Seven United Provinces of Holland similarly prove the vitality of freedom and good order when free local power is combined with a strong centre. And on a far greater scale we have an illustrious promise from Russia, and an illustrious example in the United States—a mighty monarchy and a mighty republic. Russia is divided into great regions, each transacting its local affairs, and destined to exercise an interior separate action in harmony with the general laws of the empire. The American Union started in that advanced stage. It is a cluster of some thirty-seven States, each with its own legislature, for all which, and for the outlying Territories, the Federal Parliament also legislates. Contrast their condition with ours. Only of late has their population outrun ours. They have thirty-eight legislative systems: we have one only. Surely our system is a barbarous simplicity. France alone goes beyond us. Nay, our Indian centralization is worse still. No virtue, no wisdom in rulers can make up, when the defect of organs lays on them enormous duties.

The conditions under which Central and Local powers act harmoniously are simple and clear. *First:* The Local powers must be to the Central like Planets round a Sun, each weak com-

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pared to the centre; therefore also not too few. If three equal powers are federated, the central force, which is only the sum of the parts, is dangerously weak. But if the separate parts (I will call them Provinces) are not very unequal, the union of ten or twelve would ordinarily be quite stable. *Next:* for content and rapid action, each side must know and loyally respect the duties of the other. In the American Union indeed, the Central Federal power has no rights or functions but those formally ceded to it by the States: with us any Province now organized would only have such rights as it received from Parliament. All new unforeseen business would fall to the central power, which in all cases would undertake, 1. The Public Defence; 2. Communications with Foreign Powers; 3. The Principal Highways; 4. Shores and Harbours; 5. Crown Lands; 6. National Money and Weights; 7. National Taxes. Some other matters may be made either central or local.

When the necessity of lodging high powers in local authorities is pressed, one often gets the reply: "True: we are moving vigorously for this—Birmingham, Leeds, Liverpool, Manchester, and many other towns have erected noble Town Halls and display a rising municipal spirit." This is all right, yet it is not at all to my purpose: the towns do not contain the counties, and cannot possibly attain dignity adequate to the need. Our Provincial institutions ought to be on the scale of petty kingdoms—such as Tuscany, Sicily, Bohemia, Hanover—not of mere town population. Our impending Church and State questions will be solved in this island with least convulsion, if local variety of sentiment be allowed free play. The states of the American Union legislate for themselves even on Marriage and Inheritance and Penal Law, subject only to a few broad principles. This freedom gives them a great advantage over us in experimental legislation, for it is wiser to experiment on two million persons than on thirty million. If a law succeeds, the other States can imitate; if it fail, to undo is far easier. By dealing with high moral interests a Province acquires dignity. By a full power of taxation it is made impossible for the rich and fastidious to despise the local organs. If the Province be on a sufficiently large scale, its pecuniary resources are able to reward the highest talents, and its concerns are adequate to engage life-services even from the active-minded and ambitious. All parts and ranks of the local community are then forced to take interest in local concerns. Each Province becomes a normal school for Parliament, and a

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ladder by which all high talent of poor men may rise. If the population of a Province varied from two to three million, which I think sufficient, sons of noblemen would accept its high posts as an honour—no sinecure indeed, nor to be won without popular manners and sound talent. Ireland on this scheme would have her own historical four provinces, though they cannot at present have an average population so high as two millions. The Principality of Wales is not at all too populous or too rich for one province; indeed one might throw in, not only Monmouthshire, but Herefordshire and Shropshire. The Scottish Islands and Highlands might make one Province, and Southern Scotland (chiefly Lowlands) a second. Thus seven provinces are made up; and England would easily make seven more. The number fourteen would secure that none should be too strong for the centre, yet they would be strong enough and wealthy enough for their own necessary dignity. It is not at all difficult to suggest such a grouping of our English counties into seven provinces, as may fulfil the conditions,* but I am now pressing the principle only.

To give content and stability, and save the need of after-struggles, the elective system should be self-adjusting. Beginning from *equal electoral districts* as near as may be, suppose forty thousand to be the normal population of each district, which is to send one member to the Provincial Chamber. Household franchise of course would be the rule, and I trust women householders would not be arbitrarily excluded. Perhaps three years as the term of election would be approved. Then in a province whose population is 2,400,000, the chamber would have sixty members. Each should receive from the provincial treasury a moderate salary, fixed by Parliament, to save the chamber from the odium of voting its own pay. Parliament would also by its contingent veto uphold all necessary imperial principles. Yet in the vast majority of cases the confirmation would become a mere form, and the relief to Parliament immense.

But a few words are needed concerning the relation of the town municipalities to the provincial chambers. To save complications from lodger franchises and shiftings of residence, every municipality of larger population than forty thousand might elect one or more members to its provincial chamber by the vote of its town council. Only on account of its huge size and other obvious reasons, it may be requisite to make LONDON an eighth separate

* See Appendix.

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and independent Province, with special protection against nominal citizens.

Vast problems in English legislation must soon be undertaken by Parliament, if we are to avoid the greatest calamities. Pauperism has become an English institution ever since the reign of Henry VIII.; that is, ever since the land-tenure was put upon its present footing. No country can be healthy and thriving, where the land, which naturally and reasonably belongs to the nation and is under the rule of the State, is converted into the private ownership of wealthy grandees. Perpetual invasions of common land have been allowed by a landlord Parliament to landlords, under whose regimen the rural districts are emptied out into the towns. Caledonia and Ireland have to be re-peopled. All the rural places must be made not only to maintain their new births, but to receive ample colonies from the towns. English fields will abundantly repay English capital which is now sent abroad. A vast and beneficial revolution awaits us; a necessary revolution, which the upper classes, unless unwise, must promote. The Queen's Government, however it may be composed, covets soldiers. Landlords of old were bound to furnish troops to the King: they now have somehow got the power of driving out men, and putting sheep or deer in their place. With an armed Europe confronting us, chronic alarms from Ireland, and need of constant recruits for India, great changes are inevitable. We need legislators who can grasp broad principles, not mere administrators and men of routine. We want simple and short laws, not lengthy edicts. The qualities needed for a wise and energetic member of our Commons House are now so great, that to judge of candidates is not a task for ordinary honest men. To argue from antiquity and precedent, is here a pernicious fallacy. What if the suffrage had been strictly universal under our Edwards or Henries? The functions of the House were then comparatively simple and easy: domestic experience and tradition, with sound good sense, sufficed. Ordinary householders may choose well the men who are to manage their local concerns, but not those who are to govern a great empire. As before observed, poor men will generally elect the rich and liberal. Where indigent voters have imperial power, an oligarchy of wealth is sure to bestride them. No such reforms as alone our routine-parties talk of, can give us the needful wise rulers. We want new principles and new organs for an imperial condition, as well as for our great increase in population. We have suffered

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much from postponing radical change, and the longer we postpone, the more we shall suffer. Our reforms have been always superficial, never radical. What then do I propose, to replace our Parliamentary system of election? Simply that every Provincial Chamber shall send its delegates, virtually its ambassadors, to Parliament, with instructions and with a proper salary, for a three years' term, but reserving the power to recall any delegate earlier by a two-thirds vote and to replace him, like an ambassador, by a successor. This would establish a real effective responsibility of every member of Parliament to his Provincial Chamber, yet would make his position more honourable than ever. He would be free from all popular canvassing: he would be elected without candidacy and without expense. The Chamber itself would look out for able servants. Confusion and intrigue would be lessened. Drunkenness and the publicans, beer and bribery, would vanish from Parliamentary elections. There would be no dissolutions of Parliament, no convulsive interruptions of public business. Meritorious men would be elected, and great wealth would never weigh too heavily. Attendance in Parliament ought to be enforced by Parliament itself, but each Chamber would be able to withdraw its delegates if they neglected public business. All difficulties about universal suffrage, and many other entanglements, would be swept away. In the Provincial elections the stake played for would be far lower; therefore evils would not press in on at all the same scale as now. Of course each Chamber would be allowed delegates proportioned to the population of the Province. To allot one delegate for every 200,000 heads would give ten delegates to a Province of two millions, and send to Parliament about 160 members from the United Kingdom. Surely 160 picked men, with only half the business, would be immeasurably better than our present house. Further, this scheme would settle our harassing Irish difficulties. English statesmen, whether Whig or Tory, will not endure an Irish Parliament, because no promises made by its advocates can bind it not to claim to be co-ordinate with the English Parliament. Co-ordination implies an equal right in regard to Foreign Policy, and virtually a double Foreign Office. Besides, the same ministers cannot be responsible to two Parliaments at once. I do not think that any *such* enthusiasm for an Irish Parliament is possible in England, as shall overpower both Whig and Tory statesmen; yet it is wholly inexpedient and unjust that Ireland should not have local legislation, especially

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when it is so very common with English members to avow that they do not understand Irish questions. By means of four Provincial Chambers local legislation may be effectually given to Ireland, without any danger to imperial interests. The Parliamentary veto would abundantly protect Protestants from any unfair use of Catholic majority, and no local evils arising from inexperience can compare with the substantial advantages which will accrue when Irishmen feel that Irish affairs are in their own hands. Those who have agitated for an Irish Parliament will of course be discontented and cavil at Four Chambers as an evasion; but when our sister island begins to experience benefit from the change, and sees that she is treated exactly as Great Britain in the matter, I fully expect that Irishmen will become as loyal, as intelligent, and as useful citizens in the United Kingdom as they are in the United States.

So much of Provincial Chambers and Parliamentary Elections. But as above urged, these changes will not lessen the importance of excluding the Queen's Ministers from being elected to a seat and vote in Parliament.

Am I then proposing to degrade Ministers? Certainly not. They are not degraded in the Federal Government of the American Union. But two excellent results would follow not yet alluded to. FIRST: Ministers would be more stable in their places, and attain far higher skill in their separate departments. Our Executive now cannot possibly compete in accomplishment with that of Prussia or Russia. Men no sooner have gained experience in special duties than the Cabinet is liable to collective ejection from some general reasons of policy, and untried successors step into their places. To remove officers of the army or navy or the head of the police because of party politics, is hardly more absurd than to remove the Secretary or Viceroy of India, or the Head of the Post Office, or the Home Secretary, or the Keeper of the Finances, because of some political question remote from his duties. Whatever tends to the accomplishment and stability of ministers tends to their honour and to the public welfare. SECONDLY: The removal of Ministers from Parliament, with free access for Chairmen of Committees to the documents of the Foreign Office, will alone enable us to get rid of that SECRET DIPLOMACY which constantly involves us in war. This is a signally important topic. I have not time to dwell upon it. I will merely say, five wars out of six, in my memory, would have been prevented by a previous free debate in Parliament. But

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ministers stifle debate by withholding information, which always comes too late. Even now I fear we are drifting into a new Chinese War with incalculable contingencies.

A mere seat without vote and without election might be granted to ministers, but for the danger of old habit yielding to them an initiation of business, each in his own department. For the dignity and independence of the House, and to help it to restrain ministers (which even in the United States is difficult enough) it is far safer to dispense with ministerial oratory and make the Standing Committees the sole medium of communication between ministers and the House. Then the Chairmen would be raised in dignity; the Executive would not need to be good speakers; good administrators they ought to be, but principles and instructions would be dictated by the House.

In fact it would no longer be necessary that ministers should be all of one party, any more than were those of Queen Elizabeth. Party Government would no longer be identical with Parliamentary Government. The Government might then represent the whole nation to foreigners; now it represents one side only. The Marquis of Salisbury would not then be ejected from the post of Indian Secretary for a difference of opinion with Mr D'Israeli about English suffrage. Nay, the very reasonable regulation might be adopted that every minister's diploma be inscribed with the words *by appointment of the Queen, and by consent of the House.* Then the House would be able to make each minister separately responsible to it by withdrawing its consent, and if the Cabinet struck as a body, the House would know how to punish the ringleaders effectually.

I have left an enormous topic, vital to our safety, untouched, because it concerns the re-organization of India, not of England; yet I must ask leave to allude to it, since it is a new and weighty argument for *not delaying* to re-organize England. Ever since the last renewal of the Company's Charter in 1853 very serious grievances of India have been so testified as to be undeniable. Yet they remain unredressed. Parliament, by its empty benches when an Indian appeal is brought before it, passes sentence on itself as an unfit tribunal; hence it is not likely, while constituted as it is, to re-organize India. Will the ministry do the work by its own free initiative? It *might*, but for twenty-two years it has *not*. I believe that it fears the Indian Civil Service too much. But delay is our great danger. The fatal words,

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"*too late*," may suddenly ring in our ears. Give quickly, give graciously, without compulsion, and you earn gratitude; delay, and you may be scorned. If it were impossible for us to earn Indian loyalty, it would be our duty to quit the soil of India as quick as may be. But it is certain that the PRINCES will be loyal as soon as they find their honours and estates safe, like those of English dukes, under the shield of an impartial *Judicial* Court; the PEOPLE will be loyal when their crying grievances are removed. Of course it is not my place to suggest How? Sir Bartle Frere,* no wild enthusiast or democrat, has promulgated an elaborate scheme for Indian internal government. Whenever the Supreme power of England pronounces that India herself must take a large share in governing India, there will be no lack of talent to show *How*. That which we lack is Will to undertake the task, and unless we get a Parliament with fresher eye and less preoccupied, the danger is, I think, very great that England may be wise TOO LATE, with calamity on a prodigious scale. Our vexatious and mischievous jealousies of Russia turn altogether on the belief of Indian disaffection; but with India loyal to the Queen, fear of Russia would be an insanity.

Finally, concerning the House of Lords, I briefly say, the opinion grows rapidly, that to have *two* Legislative Houses is a fundamental mistake; that an Upper House is generally an obstruction, never a safeguard. If this opinion prevail, then the thirty or forty Peers who love public business and have high talents for it, would have a far nobler career in the elective House than where they speak, as now, to a scanty audience. They would have an accession of honour without the unpleasantness of a popular canvass, if freely selected as delegates (or, I may say, ambassadors) from Chambers of such dignity as would preside over our Provinces.

APPENDIX ON ENGLISH PROVINCES.

THE Romans called the high ridge which separates Yorkshire from Lancashire, and runs up to the Cheviots, *Alpes Penninæ*; so formidable did they think it. Perhaps it is still a sufficient reason for dividing Northern England longitudinally rather than across. On this assumption I suggest the Provinces as follow:—

* I do not strike out these words in a second edition, but the reader must not forget that they were written before the wicked Zulu war.

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(1.) EBORACIA, or by contraction BRACIA: viz., Northumberland, Durham, and Yorkshire. *Capital*, York (*Eboracum*).

(2.) LUNIA: viz., Cumberland, Westmoreland, Lancashire, with Isle of Man. *Capital*, Lancaster (river *Lune*).

(3.) MERCIA: viz., Cheshire, Staffordshire, Worcestershire, Warwickshire, Northamptonshire, Leicestershire, Derbyshire. *Capital*, Litchfield?

(4.) FENNIA (Land of the Fens?): viz., Norfolk, Suffolk, Cambridgeshire, Huntingdonshire, Rutland, Nottinghamshire, Lincolnshire. *Capital*, Peterborough?

(5.) SAXIA: viz., Essex, Middlesex, Hertfordshire, Bedfordshire, Buckinghamshire, Oxfordshire. *Capital*, Hertford.

(6.) LONDINIA? LUNDIA?

(7.) ALBIA? viz., Kent, Sussex, Hants, with Isle of Wight, Berkshire, Surrey. *Capital*, Guildford?

(8.) WESTIA: viz., Cornwall, Devon, Somersetshire, Dorsetshire, Wiltshire, Gloucestershire. *Capital*, Wells?

Besides, there might be:—

(9.) CAMBRIA; viz., Wales, with Shropshire, Herefordshire, and Monmouthshire.

(10.) PICTIA: chiefly the Scotch Lowlands, *i.e.*, Southern Scotland, up to Lake Long on the West, and Firth of Tay on the East, including Dumbarton, Stirling, and up to the Ochill Mountains. *Capital*, Edinburgh.

(11.) CALEDONIA, the Highlands, and Islands from Arran to the Shetlands. This region ought to be twice as populous as it is. *Capital*, Inverness?

The division of Scotland into two provinces would greatly aid to abate the zeal of Ireland for a single Parliament, and content her with four Provincial Chambers, in—

(12.) ULSTER: *Capital*, Armagh? or Belfast?

(13.) LEINSTER: *Capital*, Kildare? or Dublin?

(14.) MUNSTER: *Capital*, Kerry? or Limerick?

(15.) CONNAUGHT: *Capital*, Tuam?

The whole course of the Ribble ought to be accounted Lancashire. Perhaps Yorkshire ought to forfeit all that is West of a straight line drawn from Kirkby-Stephen to Keighley.

Peterborough is in Northamptonshire; but the small strip of that county which is cut off by the road from Wansford to Stamford might reasonably be added to Huntingdonshire or Rutland; then Peterborough would be in *Fennia*.

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As England is here distributed, even the most midland province, *Mercia*, has some maritime interests. Every province has adequate wealth, and an admixture of manufacturing towns with broad and opulent rural areas; but no one towers greatly over others. As for names, it is highly convenient to end in the Latin *ia*, whence comes an adjective, *ian*—and we see in Columbia, Georgia, Virginia, Caffraria, Tasmania, Tyburnia, Belgravia, how easily Englishmen adopt it.

P.S. 1889.

Where Counties are so unequal, Mr Ritchie's County System seems to me in no respect to serve the purpose really wanted,—that of adequate *State* (or Provincial) Legislatures.

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ON THE STATE AS A CORRUPTING POWER.—1875-6?

THE efficacy of political institutions to mould a subject people, both morally and religiously, for better and for worse, is a formidable fact. What are the rightful claims of State Power, it has taken ages to settle. Christianity from the very first announced the necessity and sacred duty of obeying God rather than man, claiming hereby for the individual conscience an independence of corporate dictation concerning the commands of God; and though a perpetual effort has been made, alike by royal power and by priestly doctrine, to revert to the heathen and Jewish idea that "Religion is corporate, not simply individual," yet the age is become ashamed of the persecuting and sanguinary struggle. The doctrine of private Conscience and the sanctity of its private relations with the Supreme Spirit of the Universe go forth conquering and to conquer.

Nevertheless, to state the right of Free Conscience is easier than to interpret it. Grave difficulties remain. The most liberal Protestants encounter them in the condemnation of even Defensive War by the Quakers. If a Quaker is urged by his religious conscience to distribute tracts among soldiers or sailors, dissuading them from defending their own country from invasion, it at once displays the difficulty of drawing a sharp line between the things of God and the things of "Cæsar." Moral duties are owing to the Community, yet they also are often laid down as a part of religion. Indeed the Roman Church has for ages claimed to dictate in every department of human life, on the plea that all moral action is under the control of religion; and its recent pretensions are as unlimited as Innocent III. could desire. No abstract theory, however just, can obviate the possibility of a collision between moral duty as understood by individuals or by a Church, and moral duty as claimed of them by the State: but the probability of such collision will be greatly lessened, when the truth (which ought to be obvious) is confessed, that the function of Religion is only to intensify the desire to act rightly, not to decide what things are right. Human knowledge in Morals is earlier in time and more trustworthy, more certain as

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Truth, than our knowledge in Supernaturalism. Mankind has a far more complete agreement as to Virtue and Vice, than on any Religious Creed. Hence every pretentious Religion is justly brought to the bar of Morals, and may be condemned at this tribunal as spurious: Morals never can justly be brought to the bar of Religion. Therefore Morals, as science, ought to be cultivated by us all *outside of* any special creed; and when this is done on system for a few generations, hostile schools in practical morals will cease to exist.

But however widely diffused may be a true theory of pure moral conduct, the grievous danger still remains, that the State power may be to a nation a corrupting instead of a purifying agency. As to the fact, there is no use in mincing matters. Bad laws, bad administration, bad moral example in the rulers, generate or intensify bad social customs, a corrupting atmosphere, evil practices and a prevalent low tone of moral judgment. Many a loud-mouthed cry is made, avowing the impossibility of promoting Virtue by Act of Parliament; but no one at all dares to deny that Vice may be promoted by evil law. Moreover, it is clearly visible, both on the face of the modern world and in all history, that the men who manage to thrust themselves into seats of power, or are carried into them by birth or other accident, seldom or never represent the highest virtue of the community, and that the more virtuous Statesmen are almost always outweighed by men of inferior moral worth, with whom they necessarily co-operate. In consequence, in all high politics appeal is made not to Justice and Right, but to Interests and Precedent, that is, to Custom; and moral epithets such as Unjust and Wicked are almost proscribed as unfit for a Parliament or a Statesman, *except in inveighing against a hostile Power*. So much homage they do pay to sound moral principle, as to demand *from the foreigner* a regard for Justice which they consider needless in their own conduct.

So long as the kingly or baronial power rested solely on military prowess,—as it did in all earlier history, and still does in all great empires,—it was on the whole beneficial that unarmed ecclesiastics, who claimed allegiance as representatives of moral Right, should stand up against men who represented nothing but brute Force.

With the ample page of History open to us, it is now no longer difficult to see both the complexity of the problem and the only practical solution; a solution which can only gradually develop

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itself in proportion as masses of men understand and strive after Justice. The complexity of the problem was not understood. It was easy to see that brute Force was an insufficient basis for august Sovereignty; yet the stubborn fact is undeniable, that without superior force, no power, however wise and good, can perform the functions of government. The difficulty in practice is, that the goodness of individuals as rulers cannot be known or tested, until they have been entrusted with power; and the men who *love power*, though by no means the most trustworthy, are very subtle and persevering both to get and to keep it. Another enormous difficulty is, that even if every national institution had to be made new, no such joint deliberation and co-operation of wise citizens as might enlighten or overpower the unwise, would be possible. Every organization as yet known to mankind contains bad members as well as good, foolish members as well as wise, narrow-minded as well as large-hearted; nay, if power be given, or yielded unawares, to any Church, it presently becomes corrupted by the very fact; for ambitious men and hypocrites then steal into it and rise into it, seeking for self-elevation. To claim worldly power for saints as such (if it could ever so well be backed up by quoting of texts) is a deplorable folly; which would only repeat all the crusades and religious wars of past ages. Men (indeed, we must add, Women) have no security for their most elementary rights, if they are debarred from defensive political power: wholly to deprive them of such power, under whatever pretence, cannot yield the fruits of peace, justice, and good order. Nevertheless, the truth remains, which a Hebrew Psalm emphasizes: "The wicked walk on every side, when the vilest men are exalted;" and a nation is liable to be depraved, if *bad* men are allowed to rule. Surely some practical duty presses upon *good* men as a result of this weighty truth. What then is it?

Solon, the celebrated lawgiver of Athens, nearly answered this question, when he insisted that it was the duty of every citizen to take part in political struggles, and not to remain neutral and inactive. But in our wider thought and experience a considerable change of phraseology is needed. We cannot but see that all national institutions in the past have grown up out of violent conquest; that *Justice has never been the aim of the conquerors;* that they have uniformly aimed to impose heavy burdens and extort for themselves services and wealth; granting to the conquered grudgingly any small means of self-defence;

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and yielding, whatever they do yield, rather to fear or compulsion than to justice. *So long as the injustices introduced by conquest remain, in so far the national institutions are unjust.* As every good man strives to uproot from himself whatever is wrongful, and struggles towards a purer state, so ought every right-minded citizen to deal in political affairs. To maintain unjust institutions imposed by conquest *however distant in time or space,* implicates us, if not in the guilt (for we may be in ignorance of it), yet in the evil and dangerous heritage of guilt. As soon as injustice glares upon us, we are morally bound to take part against it. The same maxim is true, whatever the antiquity or the nature of the injustice. However old it may be, or however new, the striving of every man ought to be against it. Without this striving, no man deserves the epithet of *righteous;* no one can claim to be on the side of God; for the essence of Deity is opposed to every injustice. Subtle men, aiming at their own interest, who perhaps do not at all love injustice in the abstract, but are either blind to it or reckless of it when it promotes their ambition or their avarice—are constantly alert and active to deprave the law and pervert the administration—or to corrupt the nation by vices or by bribery. Our position as free citizens in a modern European community imposes on us new duties, to which there was no parallel among the first Christians.

This topic affords a clue to the solution of a large and painfully interesting question. "Why is it" (each reader of religious histories asks in turn) "that every new religion begins better than it continues, and none can spread over any continuous area without dire corruption?" It suffices here to allude to the early Persian religion, to Buddhism, to Islam, but pre-eminently to Christianity. A very superficial reply is, that it springs from the incurable depravity of human nature. It is not worth while here to deal with that pessimist and demoralizing theory. But on the surface of history it is clear, that as soon as any organization is discerned to invest power in its officers, be it called a Peerage, an Aristocracy, a Club, or a Church, ambitious men steal into it for personal selfish ends. There is no cure, except in proportion as the *mass* of private citizens actively concern themselves in upholding that which is their common interest, Universal Justice.

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ON CRUELTY.

From "Fraser's Magazine," April 1876.

MAN accounts himself the lord of this globe, not only in fact, but also in right. He is prone to believe and assert that every part and product of it was designed for his sole welfare, pleasure, or convenience; that if it please him to annihilate any species of animals he has a right to do it, whenever he has the power; and short of this, he may drive marine tribes from seas where he cannot himself dwell into regions less hospitable, and may kill the bison merely for his tongue, the elephant for his tusks or trunk. When we ask on what ground of right this complete human sovereignty is based, the answer is not uniform. One school dares to rest it solely on the intellectual superiority of man, whom Sophocles celebrates as the "cleverest" (δεινότατος) of earthly existences. "He has invented," says the great poet, "navigation and agriculture, hunting and fishing; has tamed the horse and the bull, and subdues fierce beasts; nay, he has taught himself speech and lofty thought and civilised habits, and the building of houses; and though he cannot avoid death, he devises remedies of disease." Is not this, then, a worthy and rightful lord of all things found on this lower world?

Such an answer might have suited many an ancient reasoner: happily it does not at all satisfy the modern European mind. Traditional religion, enlarged knowledge, continuity of moral reflection, and light brought into a focus from many nations, have impressed upon us the conviction that mere Power, whether of muscle or of intellect, into which Moral elements do not enter, is rather devilish than divine. Power is not given to the individual for the sake of the individual only; the ruler exists for the sake of the ruled. He who would be the highest of all must become the servant of all. Bias, one of the seven Greek sages, enunciated as his cardinal maxim, Ἀρχὴ τὸν ἄνδρα δείξει, "Power" (or magistracy) "will show the man." This does not assert, but probably implied, the moral responsibilities

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of all power. The prodigious results of intelligence, and the evident fact that without it no high power can exist, led thoughtful men in very early ages to the conviction, that in its grandest developments Might is guided by Right. Hence the old Roman epithets, "Jupiter Optimus Maximus," incorporating the belief that Greatness and Goodness must coexist; inasmuch as the same high intelligence which is great, is certain to submit itself to the laws of goodness. Such, we venture to assert, is the core of all human religion which is worth having. We cannot admit that a God, to please his own fancy or caprice, should sport with the miseries of his creatures. We do not admit that mere power justifies man in being "the tyrant" as well as "the lord of this world."

But we are encountered on the threshold of this argument by the assertion that God, *if there be* a creative or ruling God, is reckless of the miseries of His creatures. Men who themselves abhor cruelty, lay a foundation for the exercise of systematic cruelty by others, in the harrowing catalogue of horrors which they lay to the charge of the Creator (*if there be* a Creator); and press home their assertion that the highest Power is *not* identified with the highest Goodness. To treat such an argument fully and worthily would be no light task; yet some remarks upon it seem here to be appropriate.

The worst accusation that any one can make against the Creator is comprised in the fact, that he has given so much power to so cruel a being as Man. No attempt here is made to repel or palliate this accusation; but it is not on this that the accusers accuse Him, as far as the present writer happens to know. Their accusation turns upon great natural catastrophes, upon carnivorous instinct, and the pangs of disease . . . or of maternity! Our imagination here is apt to delude us. No one who has been in a storm at sea, especially in a small and tossing ship, will deny that to be swallowed in the sea is an awful thought; thence it may rapidly be inferred that to perish by drowning is peculiarly painful. On the contrary, there is good reason to believe that it is peculiarly painless—some even say pleasant. Those who have been recovered after drowning, suffer much feebleness or misery for weeks from the partial carbonization of their arterial blood during suspended animation; but their concurrent testimony is, that the drowning itself was like a pleasant dream. The same thing happens (as I can testify) if one swoons, either from loss of blood

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or from severe pain; and I believe also, if one swoons from the close atmosphere of a public room. The swoon itself is delightful; and if one died in it, death would be painless. Thus *one* of the great geological catastrophes, Inundation, which from time to time drowns masses of living creatures, is freed from the imputation of cruelty in the mode of death. To be burned at a stake, by the wickedness of man, is horrible agony; but to perish by natural fire when it is on a great scale, is instantaneous and merciful. The blast of carbonic acid gas which comes from a conflagration fills the lungs and extinguishes life without a struggle, before fire can torture the nerves; or again, smoke suffocates effectually in the same way. To be flung into the crater of a volcano might be as painless a death as any. We were all much shocked when the Rev. Julius Elliot ascended an Alp in quest of health, and by a slip of his foot on the ice when he had gained the top was hurled to swift destruction; yet physicists comforted us by the assurance (which was not invented for this argument), that in falling through two or three thousand feet of air human life is extinct before the body can reach the ground; so sudden and vehement is the shock on the nervous system. Of course the same remark will apply if the earth open and swallow up man and brute. A mere *quake* or trembling of the earth is perhaps less merciful, as it may crush and wound without killing; but this is only through the folly of man, who, as certain Indians taunted the Spaniards, so built houses as to make them sepulchres.

To be devoured by a wild beast, is to each of us an odious thought; but it does not follow that to be killed by a tiger or by a lion is peculiarly painful. On this topic Dr Livingstone has given us his own valuable experience. A lion leapt on him, seized him by the shoulder, and tossed him in the air, as a dog tosses a rat. The tossing caused a delicious delirium, which precluded any sense of pain; had he then died, it would have been a merciful death, but we should not have known that so it was. However, his companions shot the lion, who thereupon dropped his intended victim, and took to flight. Dr Livingstone's life was saved, and he endured much pain in the healing of his wounds, though he had none while in the lion's jaws.

The skill with which all rapacious animals kill their quarry, has often been noted. Evidently this is no accident; it pervades nature. The tossing of a rat, or of a man, in the air, might have seemed sportive caprice in the victorious beast, whom we cannot

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suppose to do it from any design; but when we learn that it causes the captive to swoon, and benumbs pain, we seem to read a divine mercy beneath the animal instinct. Young lions are said to bungle in their first attempt to seize large game, and to need instruction from their parents; but to judge by young hounds, there would be no bungling, if they did not assail game disproportioned to them. With great accuracy a young dog bites asunder the fatal artery of a rabbit or leveret; and it is not without reason that we ascribe to all the carnivora an effective skill in killing, which man with much training rarely equals.

"Yes," says one class of reasoners, "we admit that they kill cleverly, and with little suffering to their prey; but consider what misery, what terror, the unhappy hare or deer or partridge endures while chased by its adversary." Is there not here an entire mistake? Tie up horses and bullocks in a stable, where they can hear outside a lion or tiger roar, and, no doubt, they endure agonies of terror. Sweat runs down them, they shiver and are exhausted by their own emotion. But this is not their position in wild nature; they are brought into it only by the artifice of man. The wild cattle take to flight from the fierce beast, unless strong enough to turn and face him. In either case the exertion, or the preparation to fight, absorbs terror. While the sailor has something to do against the storm, activity subdues fear; but when nothing can be done, and he sits helpless, then it is that fear may unman him. According to Idomeneus in Homer, the greatest trial of man's bravery is, to sit in ambush with foemen near outside the thicket. When it is his duty to sit still and do nothing, *then* it is that "the coward's hue changes and his teeth chatter." Inaction being the state which brings terror to its maximum, we may justly doubt whether an animal which is straining all its nervous and muscular energy to escape, really suffers agony from fear. Fatigue may at length induce distress, with symptoms similar to those of fear; but violent exertion is part of the life of such creatures, and does not impair their happiness. Rapacious animals must kill, day by day, in order to live; it is a part of the natural system by which the balance of species is maintained. But no inference, that the birds and beasts which are the objects of prey, have unhappy lives, can at all be sustained. They evidently enjoy life, as do human communities, though exposed to many dangers and alarms. To say that life is precious, is to avow that the good largely predominates.

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Then, as to disease;—who is so bold as to call disease *natural?* As Paley observed, "No one has alleged that teeth were made to ache." Health is the ordinary state of the wild animal, and indeed of man, while he observes the rules of savage common sense, if we may not call it instinct. Not living in his natural climate, man needs artificial covering, and may become diseased by wet or cold, if negligent or if cruelly exposed; but, for this commonest illness rude tribes have effective remedies, and against foul air or water they are very vigilant. Complicated disease prevails only in civilization, so called; until the civilized impart it by contagion to the barbarous. Disease is the punishment of our unnatural life. Only in proportion as we return to the moderation and simplicity of nature, can we expect to enjoy health. But that a formal attack should be made on the pains and danger of childbirth, as an imputation on the benevolence of the Creator, is perhaps the weakest utterance which in these days has come from able men. The subject cannot be adequately treated in brief. Suffice it here to remark, that mismanagement, injustice, or habits wrongfully fostered, bring upon mothers all of the danger and most of the pain. The tender and ennobling relations of the family will not be too dearly purchased, when a mother's sufferings are brought to their natural minimum. But if richer women are enfeebled by luxury and inaction, and the poor suffer by excess of work, bad air or bad nourishment, it does not become us to impute the evils to the Author of our nature. So long as the wild creatures live by their own instinct, and no errors of man derange the general system, there is nothing on the severer side of nature which deserves to be esteemed cruel. But as soon as man begins to expand beyond the animal and beyond the guidance of instinct, wholly new elements of evil are developed. Hunger is the chief appetite which kindles a brute into ferocity, and hunger is quickly appeased. The passions which incite man to cruelty are many, active, and continuous, nor hitherto have they been much lessened by civilization; nay, in some respects the evil has increased.

Among barbarians the prevalent cruelty consists in a total inobservance how others suffer from their actions; this is widely different from desiring, observing, and having pleasure in the suffering. The former is only the same form of cruelty as we ascribe to the wild beast; recklessness and brutality fitly denote it. The Greeks call it ἀγνωμοσύνη, a word which means either want of sympathy or want of intelligence; indeed it is attributed

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to lifeless tools, and likewise means pigheaded obstinacy. In children this cruelty largely depends on defect of intelligence, and unless other passions and appetites biassed us, tenderness for others would normally increase with intelligence, as (it is to be hoped) it really does in the human race collectively. But on both sexes and all ages the two passions which act most equably and constantly to generate every form of cruelty are Fear and Revenge. While men live in the small communities which we call tribes, self-preservation ordinarily requires a constant preparation for war, and in some countries a constant warfare against powerful beasts. Whether men live by hunting, by herds, or by agriculture, to maintain their own frontiers is matter of life and death to them: yet each tribe in turn has a propensity to encroach on the cultivated fields or the pastures or the hunting grounds of its neighbour, out of which rises a state of chronic war, suspended perhaps by intervals of truce and treaty. If, chiefly in tropical countries and favoured islands, a simple community live for generations unmolested, and grow up gentle and amiable;—alas! a crisis is sure to arise, when another tribe, accustomed to bloodshed and skilful with weapons of war, finds out its secrecy, and tramples it down ruthlessly. As far as we know, only in the most inhospitable climates, as Lapland and Greenland, where Nature seems to forbid men's residence, communities of men can live for centuries tranquilly without government and without convulsions. Rude, very rude, such men must remain; but no one calls them collectively cruel; rather, kindness, hospitality, and mutual justice characterise them. Strangers do not covet their territory; the struggle for life against obdurate Nature suffices them, and they have no practice of war.

To say that warlike barbarians are reckless of brute suffering, is needless, when prevalently they are ferocious to neighbour-men. From the earliest times on which history throws light, modern Tartary and European Russia (then called Scythia) had great equestrian monarchies while yet in dense barbarism. The Ural mountains first divide this vast region, but on their European side is an unbroken plain, which huge waggons can traverse without roads. On such plains the Scythians and Tartars carried their wooden houses, and, as Gibbon observed, learned in their ordinary migrations some of the most difficult arts of complex war. Tartary to the north of Persia is also a vast plain, and still farther east, beyond Beloot Tagh,—the Imaus of the ancients,—there is plenty of rolling country in Mongolia. In the dawn of

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history these nations were all acquainted with the use of iron, and practised the trades of smith, carpenter, wheelwright, and saddler; but their arts did not go much beyond. Horses and cows abounded, pasture was infinite, and imperial ambition had men, arms, and horses at its service. To exact tribute of corn and cloth from industrious agriculturists was a more obvious proceeding than to labour for these products. Thus while petty tribes are driven perpetually to war by fear or necessity, the mighty communities of Scythia and Tartary, which were above fear, were kept in constant military exercise by royal habits or schemes. Military discipline, once made national and constitutional, is eminently despotic. The soldier is taught to obey without criticism, and to account his own life cheap. Military policy is proverbially summary, and, aiming at an immediate object, seldom takes cognisance of a not distant future. If policy seemed to require, to a Tartar or to a German warrior it was an obvious proceeding to make an artificial desert between himself and a neighbour, by burning and desolating a sufficiently large tract. To such a man it does not occur, that those whom he is destroying as enemies to-day, may be valued as allies some years hence; and if it be suggested, that their hatred may be hereafter dangerous, he will infer that the destruction must be made complete by killing the women and children. While we have no detailed history of any of these peoples, every glimpse that we get of them displays them as eminently murderous. More modern history knows something of the armies of Jengis Khân and of Timour. The former left the vast plains of European Russia studded with the mangled bodies of the population, whom he tried to extirpate; the latter, though a cultivated prince, delighted himself in pyramids of human skulls. On the ruins of Bagdad alone he set up a pyramid of ninety thousand, and meeting gallant resistance in Fars (Persia proper) he slew, to the best of his ability, all the males of that district. Such, in the rough, will exhibit Tartar military policy. The Scythians found agricultural nations settled in the very fertile districts of Podolia, of the Ukraine and the Crimea; from whom they exacted tribute. These must have been the progenitors of the Ostrogoths,—not emigrants from Sweden, as Jornandes imagined, but probably Teutons who were left behind in the great Western migration. From these agriculturists, who gradually became more powerful than their Scythian lords, the Scythians may have been forced to learn some lesson of moderation; but in the time of Herodotus,

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their recklessness of life and suffering was extreme. On the death of a king, a whole bodyguard with their horses and many personal attendants were slain, to accompany the king in the other world, and their bodies were paraded round the tomb. Such death was probably accepted as a military honour. This warrior people was naturally glad of slaves, whom they stole from the more southern regions; but lest the slaves should escape, they were blinded, and their utility to the master reduced to its lowest point. Fantastic religion was just now alluded to as a parent of cruelty. The deceased king needed an escort in the other world! In the celebrated "customs" of the modern Dahomey, the same idea works out a similar result. Victims must be slain to grace the departing monarch. What fantasy of superstition lay at the bottom of Aztec enormities, we are left to conjecture, but the remains of temples attest how sanguinary were the rites. Religion is alternately the mainspring of cruelty or of mercy, according as reason and knowledge enter little or much into it; but it is believed that, with one exception, this has been a secondary influence—revenge, imperial pride, and various forms of avarice, have been the chief incitements to human cruelty. The American Indian, a man not inhospitable nor treacherous if honourably treated, yet because of his intense family attachments is fierce in *revenge* against the slayer of his father, his brother, or his son; is pitiless towards the women of his foe, and in many cases puts a captive to death with studied and profound cruelty. Much effort was used in Arabia, in Syria, in ancient Greece, as, indeed, among the American Indians, to subdue the nuisance of continuous blood feuds, which, before the English became predominant in America, seem to have been permanent with those tribes. It is stated that, in some of them, a young man could not be married until he exhibited the scalp of a slain enemy. No wonder that they ill coalesced against the white stranger, and that they could not multiply so fast as their invaders. Revenge was probably their strongest, as their most malignant, passion; to incorporate it into a fixed system was fatal.

To these Americans the Germans of Tacitus have been often compared; but in sanguinary habits the Germans scarcely equalled the Rhætians and Thracians, much less the Tartars. Thucydides speaks with high respect of the Thracian monarchy contemporary with him—that of the Odrysæ—of whom his mention may be summed up thus: "After the Scythian monarchy, with which no single nation in Europe or Asia can compare in

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force, the royalty of the Odrysæ comes by far the closest in military vigour and abundance of armed men, besides its ample revenues of money and all other wealth." (Thuc. ii. 97.) Elsewhere he gives us a specimen (viii. 29) how Thracians behave. The Athenians had sent for a body of mercenary Thracians to accompany their expedition against Syracuse; but it arrived too late, so they sent it back immediately under an Athenian general, with orders to do some harm with it to the enemy on the way home, by landings on the coast. First, a little ravage was made rapidly round Tanagra of Bœotia; next, a descent was made near to Mycalessus in the same region. This town was wholly unprepared for attack, and easily taken. "The Thracians (says the historian) rushed in, and slaughtered the population, old and young, women and children; besides labouring cattle, and all living creatures. For the Thracian race is as murderous as the most murderous of barbarians, against whatever it can attack without fear. And, on this occasion, alighting on a very large school of boys, they made a universal massacre of them. No city of Greece suffered unexpectedly a more terrible calamity." Here, neither revenge nor fear existed. They were a mercenary troop, wholly ignorant of Bœotians, and fought only because they were ordered to fight. Evidently they did but carry out their national habit. In like manner we learn that in the time of Augustus Cæsar the Rhætians of Switzerland, who invaded the Roman province, slew males indiscriminately, and made a mark of pregnant women. The Romans in their military customs show that they come of the same stock, and are but slightly mollified; and the Homeric Greeks, especially in the typical character of Achilles are but little better, though Αἰδὼς and Νέμεσις, words not easy to translate, had begun to restrain them. Αἰδὼς combines Shame, Reverence, and Mercy; Νέμεσις suggests fear of some divine retaliation.

But, besides the general causes of cruelty which acted on an entire population, special incitement arose out of Imperial or Hierarchical pride. A king is angry that his will is opposed, and much more if his power be disowned and defied. Any open resistance to him is deemed a crime which justifies his anger, and calls for severe infliction; and the same applied to disobedience to a sultana. Greek writers tell horrible stories of Persian queens, who invented cruel and slow modes of disgusting death for men who had offended them; and, from the equal cruelties of some Macedonian queens, it is to be

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feared that the tales are true. That executors of such orders could be found indicates an intense servility of the people. Where there has been military resistance, we the less wonder at obedience to any severe commands; such is military discipline. Mutilation of hands, ears, and nose, seem to have been ordinary punishments of treason with the ancient Persians: and what have Englishmen to say against them, when we know what our law, at no distant period, inflicted as the punishment of high treason? The criminal was hanged and taken down alive, disembowelled, and cut into four. Not a full century ago, Agha Mohammed, pretender to the Persian crown, when he captured a city which had espoused the cause of his rival, had baskets of human eyes brought him, torn from those who had resisted his claims. This is told by Sir John Malcolm as trustworthy fact. From a country which could endure such a king, what could be hoped?

Against imperial cruelties, prompted by pride, republican pride and democratic sympathies first made practical resistance and really turned the tide. The Greek republics in general claimed that freemen should not be subject to degrading punishments. Spartan officers were prone to use the stick against soldiers or workmen, but this was strongly resented by the prevalent Greek spirit. Already in the Persian war, before Athenian democracy had obtained its highest pitch, the aristocratic Æschylus alludes with horror to the barbarities of punishment too well known as Asiatic. The Assyrians appear to have gone beyond the Persians in cruelty to enemies; whom, if we believe their own sculptures, they were proud to impale and to flay alive; but the Persians too went to great extremes. Oroites, governor of Sardis, having enticed Polycrates of Samos to visit him, killed him by crucifixion. Some of the deeds attributed to Cambyses are too maniacal to reason from; but it would appear not to have been thought outrageous, in punishment of an oppressive satrap, to kill him, take off his skin, tan it, and spread it for his successor to sit on. To every form of torture and to punishments of the body, the democratic Greeks had a great objection in their own case; unhappily, they approved of the judicial torture of slaves. In fact, both they and the Romans had an infatuated idea that this conduced to the discovery of truth, and therefore was legitimate. Why from slaves especially, and not also from freemen, torture should wring out truth, no one undertook to explain. The Romans

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seem to have objected more to the ignominy of judicial punishment than to the infliction of death. To military execution they were accustomed; they employed it, and they submitted to it without murmuring, though preferring to die by their own hands. The Athenians thought themselves merciful in not extirpating the whole population of Mitylenè, friends as well as enemies, for the guilt of insurrection. Rescinding that decree, they were highly satisfied that their general put to death only one thousand persons of the adverse faction. Fear had suddenly made them cruel, though cruelty was far from their nature. The same thing may be observed of the English in India, and of the Turks. Absurdly partial and essentially selfish in old days as was the limitation of democratic claim, yet the definite and persistent effort against the torture, scourging, and judicial execution of freemen was a very important germ of nobler sentiment pervading common life. Republics had no sympathy with royal pride, and largely identified cruelty with royalty. The dignity claimed for freemen redounded to the dignity of human nature.

Meanwhile out of industry and commerce and the enjoyment of wealth a terrible Avarice had been growing up, the source of unlimited cruelties. From captives of war slavery early arose, and public slaves were used in mines and other rude works, perhaps in all the early monarchies. Slaves were hunted in Africa to supply the markets in Egypt and probably in Tunis; also the Phœnicians carried on a continuous slave trade in prisoners of war—an awful portion of human suffering in those days. The Germans, according to Tacitus, dreaded slavery chiefly for the sake of their women. Imagination cannot conceive the miseries endured by captive ladies; indeed many a barbarian woman had a self-respect as resolute as have our ladies. Avarice, as a source of reckless cruelty, is more formidable than the Pride which generates anger and studied cruelty; for the latter is impulsive and occasional, and it may relent; but commercial avarice is persistent and unrelenting: once undertaken, it goes its way by habit and as a routine of lawful business. To this day Slavery and the trade which feeds its market are a prime cause of human suffering. Indeed it has fundamentally blighted the vast continent of Africa; and unless in this important crisis, when Russia and the American Union have renounced slavery, the Great Powers pronounce the Slave Trade upon the ocean to be Piracy, and combine to put it down with a high hand, refus-

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ing equal diplomatic intercourse to the States which sanction slavery, no one can foresee a probable limit to the new developments which it may assume in the Pacific as soon as the English colonies can afford to defy the mother-country. The cry now arises (not a day too early), that in Europe female prostitution is a real and deadly slavery; but in the system known as chattel slavery, the sale of young women for men's fancy is but a part and episode of the horrible drama. The Avarice of traders may fully compete with royal Pride as a mainspring of cruelty; indeed Trade, though an excellent servant, is a bad master. When the trader gets the upper hand, he not only kidnaps, sells, and buys human beings; he likewise stimulates wars in pursuit of his gain.

It were well if none but traders were avaricious; but as foreign nations are liable to suffer by a slave trade, so every home-population is exposed to endless cruelties by the land-invasions of a military aristocracy and its heirs, even when the military system is effete and extinct. Avarice again is one motive, though the love of Power builds upon it: the cruelties perpetrated are prevalently unseen and unknown. Manifestly land is a common property of every nation, and is a necessary of life; if any one has a greater right in it than another, it is the cultivator. Yet, oftenest through the violences of conquest, the cultivator becomes a virtual serf. Some military lord, who represents the conquering state, takes a rent, and in process of time claims to be proprietor. Laws are made or are interpreted in favour of the great lord; so the peasant sinks lower and lower. In Russia the peasants were depressed by a series of imperial edicts, step by step, into miserable serfs, and at last into real slaves; we have lately seen them rescued and raised by the same imperial power. In Austrian and Prussian Poland, and eminently in Prussia, the peasants were virtually made independent by the power of the Crown; in Hungary the Parliament had the honour of doing the same work by the energy of the middle and upper classes, against a Crown somewhat reluctant. Everywhere the effort of a few has been to appropriate the soil to themselves; nearly everywhere in Europe they have been repressed, but in France only through a deadly revolution. To estimate the cruelties entailed by aristocratic invasions of the land, we must not look solely to the hard life of the countryman, who by no amount of industry can earn enough to provide for his old age, and is thought to do wonders if he can feed and clothe his family; but we must look

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to the wretched "slums" of the towns, with their fetid air, foul water, and diseased degenerate population. These are the sinks into which the misery of the country drains. Where town land is sold by the foot, no poor man ought to live; he can scarcely have a healthful home: yet into our towns the wretched beings flock, because they are excluded from their rural birthplaces. The cities to which our imperial centralization and manufacturing industry have given birth, are as huge wens on the body politic. The dreadful diseases which afflict civilized man have here their natural home; here too every foreign contagion finds a suitable nidus. Health is the first aim of the barbarian. Health is cardinal to every man's happiness; to the working man it is necessary for the daily supplies of his family. A healthy people are the strength of a state; a sickly population is public weakness; but health will not be general where family is piled on family, and private gardens are impossible.

Cruelty to innocent animals is inevitable from the modern weapons of slaughter and from our steel-toothed traps. The savage man is almost as merciful to his game as is the savage beast. He spares to shoot till he can kill outright; he cannot afford to throw arrows away. But leaden shot in any number can be spared, with lingering agonies to mangled birds which escape the hand of their destroyer. The savage man, like the savage beast, chases his victim because he is hungry, or at least because he wants it; and his want is finite. But the accomplished Englishman shoots for sport; sport, being a mental impulse or appetite, is insatiable, and therefore far more deadly than hunger. Excuses are made, no doubt; some one else will eat the innocent game: it is valuable human food. A boast is made that ninety millions of rabbits are reared for the consumption of our nation. Ninety million rabbits sent out at large to nibble the young shoots of the growing crops—each of whom destroys and wastes ten times what a tame rabbit would eat in a hutch—are boasted of as an increase of our supplies! If twenty million of these reach the town markets it is much; how many beside are cruelly massacred with no profit to man! and how many beside, with unhappy hares, foxes, cats, stoats and weasels, are held for days and nights in lingering torture by horrible steel traps? All this goes on in the midst of refinement, without prohibition from men or remonstrance from women. It is a fruit of the modern English system of game-preserving; it is coupled with a landlord's rights, and with the artificial love of sport which the

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cruel Norman tradition has fostered in the stolid Anglo-Saxon race.

What now of that eminently human passion, Religious Emotion, and that theory of Religion which can exist only in a human intellect? Notice was above taken of the fantastic follies by which religious thought has generated cruelty; but in truth the action of religion for good and for evil has been so fitful and various, that to write at once truly and concisely on the subject is a difficult task. Among ancient national religions none is so apt to move our contempt as that of Egypt; next to this, the monstrous fictions of Indian mythology amaze us. Yet both religions appear to have aided gentleness and repressed cruelty in the main. Regard for sacred animals was in both carried to an absurd extreme; indeed, the Egyptian embalming of so many seems to indicate a belief in their immortality and future resurrection, if that is the true interpretation of the human embalming. Be this as it may, an amiable tenderness for the lower animals has proceeded from both these centres, and seems to have been accompanied by a general softening of the national character; though Indian fanaticism allowed strange *self*-torment to devotees, and a later corruption of the sacred books introduced the burning of widows. The religion of Persia and of Judæa was in its theory far nobler—at least it was less incrusted and buried in fable and mystery: nevertheless each was fiercer and severer, until the Hebrews fell into the gravest national calamities. When they were dispersed among the heathen, as a martyr people, attesting the One and Holy God, they became humbler, gentler, and wiser. That section of them which dwelt in their old centre, Judæa, constantly improved and softened its laws, to which probably in the days of Augustus Cæsar no other national law could compare, nor any philosophical school to their best religious teachers. In the midst of this arose Christianity, proclaiming itself the religion of humility, purity, and love, against the hard and cruel materialism of iron-hearted Rome. Yet after Christianity had supplanted Paganism in imperial pretensions, and had itself become a kingdom of this world, it undertook vast and fierce wars for the Holy Sepulchre, and presently showed itself, not arrogant only and ambitious, but fanatically cruel, gradually outstepping all the ferocity of the wildest tyrants. The Crusade against the Albigenses was unparalleled in Roman, Greek, Persian or any ancient history known to us; and the Inquisition, established at its close, was a system of deliberate atrocity,

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continued for centuries as a pious institution, which will for ever be branded as infamous and execrable; yet its pretensions were based on the name of a gentle and loving religion. What stronger testimony can we have of the fatal tendency of men—especially the ambitious and aspiring—towards extreme cruelty? What greater proof is needed that the common sentiment of the multitude must insist on bridling the fantasies of those schools which profess to be eminent in wisdom? Wars innumerable, on religious pretexts, the Papacy has stimulated, from its commencement till the close of the Thirty Years' War in Germany. Nearly a millennium lies in this interval. What further is to be said of the Popes bestowing kingdoms beyond the ocean on Spaniards or others who could conquer them — for the honour of the Church? and of the long tissue of frightful wickednesses which followed, with immeasurable agony? What of the present effort of the Papacy to embroil nations in foreign and in civil war? The matter is mournfully plain and needs no comment.

But now, behold, a new horror has risen upon us—Cruelty in the garb and pretensions of Science! Science was going to set Religion right. She held up her torch to illuminate the deformities of superstition, and display the wickedness of Religion,

> Quæ caput a cœli regionibus ostendebat
> Horribili super aspectu mortalibus instans:

yet now, Science has become a rival of the tortures of the Inquisition, and by increase of knowledge has learnt to torment still more ingeniously. That scientific zeal can simply overlook and as it were forget suffering, is almost inevitable in some professions, and sometimes cannot be censured. In our attack on Odessa during the Crimean war, an English officer on board one of our ships described with enthusiasm how "beautifully" he was shelled from the Russian forts; though, if the damage had been grave, fear would have abated his scientific admiration. Lady Sale, when shut up with her husband in Jellalabad, in the crisis of our Afghan struggle, describes with rapture how we poured shot and shell on the natives who desired to eject us from their town. With her it was not Science, but Fear, which inspired joy in witnessing the effect of deadly missiles. The surgeon, as a soldier, must steel himself (temporarily at least) so as to forget or neglect the suffering which he causes: else, he cannot perform his duty. Out of this concession has grown a

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terrible licence. Sixty years ago, Sir Walter Scott, in his introduction to the Bridal of Triermaine, denounced as "murder" the amusement of men (since called biologists) in killing frogs and other small animals. A few years later, all England shuddered at the horrors narrated of Majendie; but we hoped that only Frenchmen, only foreigners, could perpetrate such things. Alas, they are not to be confined by geographical limits. Science is cosmopolitan. Our pupils study in foreign schools, learn from foreign masters, and imbibe foreign sentiments; but England has been very slow in learning into what lavishness of cruelty against innocent creatures the insatiable curiosity of Science has advanced. It is true that men are not yet ostensibly and avowedly its victims. When it condescends to apologise, it alleges that mercy to diseased man prompts and justifies cruelty to lower animals; but this excuse can only blind those who wish to be blinded. The torturers are not aiming to heal A B or M N: they are seeking for large views, scientific facts, biological doctrines. Very few of the whole number of torturers are practising physicians or surgeons; they are prevalently Professors or Students of Biology. Any common person who can persuade three or four others to abstain from unwholesome quality of food and drink, from equally noxious excess, and from other unhealthful habits, does more to forbid disease and prevent human suffering than a whole legion of ruthless torturers can achieve for the restoration of lost health. Barbarians are healthy enough, until corrupted by our fiery liquors or infected by our artificial diseases. Rustics everywhere are healthy, if allowed to select wholesome spots, with good air and water. There is no scientific secret in health. The laws of a nation ought not to count on prevalent disease, and seek for profoundly artificial remedies, but to discourage or forbid the causes of disease. Give us fair play, and we shall be healthy enough by simpler modes of life; and who of us confesses himself so base, as to desire innocent animals to be tortured for the chance of its bringing him some relief in a possible disease? With the vast mass of the torturers, however, this is a wholly insincere excuse. They are really eager for Discovery, as a worthy and sufficient end in itself. What they call Science cannot be legally defined. Every isolated fact is always possibly an item in a science that is about to be. What is the temperature of a cat's liver; how hot scalding water must be to kill a rabbit; what is the effect of sticking a needle into the heart of a dog—are with these men scientific facts; and

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necessarily so. Thus all indulgence of wild and wanton curiosity must pass as Science legally; whether practised by a little boy or a pretentious sciolist. Young Watt displeased his aunt by his studies on the tea-kettle: they were the beginnings of his discoveries in the steam-engine. If a precocious boy begin his discoveries by impaling hedge-hogs and mutilating cats, who can deny that he may be on his road to become a biologist greater than Majendie?

Of course it does not follow that those who are pitiless to the lower animals would *all* be pitiless to the human race; but it is certain that they could not go through their dreadful task if they had any feeling for the poor animals. The heartlessness of professorial utterances chills us to the marrow. "Here is a rabbit in which *ten days ago* I excised the accessary nerve. I drop it from a height of two feet, and then count the pulsations of the heart. I will now, while I hold the animal, pinch the tail, which at its extremity is exceedingly sensitive; and I will do it so that the animal shall not be able to cry out, but shall manifest its pain by struggling." What a malignant being has the Creator put in authority over the helpless animals!

When we ask by what *right* a man tortures these innocent creatures, the only reply that can be given is, because we are more intelligent. If in the eye of God this is justifiable, then a just God might permit a devil to torture us in the cause of diabolic science. To talk of human dignity as a reason why man should not also be tortured, is absurd. The biologists are the last men who will put forward human immortality as a fact which lifts men immeasurably above animals. They are more likely to avow that a disembodied soul is a physical impossibility, and life after death a mere dream of ignorance; that man is physically descended from less intelligent and non-human organisms, and is separate from brute in degree not in kind. It has often been suspected and complained that patients in hospitals are not simply treated by methods which aid nature, but are experimented upon. What sort of tenderness for man can we expect from surgeons who can thus teach by torture, or from students who can endure to listen? The sensitiveness of the human frame is the only just and solid reason why the torture of the innocent is a wickedness and why death (if it must be inflicted) should be made as painless as may be; and the very same argument applies, if not perfectly and in its fulness to all vertebrated animals, yet perfectly to the warm-blooded. To cut up a living horse day after day in order

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to practise students in dissection, is a crime and abomination hardly less monstrous from his not having an immortal soul. An inevitable logic would in a couple of generations unteach all tenderness towards human suffering, if such horrors are endured, and carry us back into greater heartlessness than that of the worst barbarians. No black art of magic and sorcery, no cruelty of false religion, can surpass the cruelty of heartless science.

Thus we have to admit to the Atheist a very terrible imputation on the Creator, in the fact that He has created a being capable of such malignity and endowed with such power as Man; but we do not therefore resign ourselves to Atheism. We allege that the cruelties of the few must be controlled by the mercies of the many: as the violent man must not be allowed to prevail, so neither must the heartless. Moral Force must be admitted as the just universal ruler, and be installed everywhere. Universally, the cruelties of man depend on a neglect of this law, which has to be applied in detail to control every form of cruelty. Why do princes and statesmen, who would scorn to steal a shilling, make no difficulty in stealing a kingdom? Why does one murder make a villain, but the murder of thousands a hero? Really, because in deciding a policy, moral considerations are not made paramount. A jury is not permitted to award a small sum of money, without a solemn pledge that it will give a verdict according to justice; but Cabinets and Parliaments are subjected to no such pledge, and give their votes habitually, avowedly, according to the dictate of their party. The attempts to moralize war always decline the question, on *which* side Right lies; and while war is pending, no serious attempt is often made to get any judicial decision of Right. None of the sacred forms are used, which alone we trust for justice in our private affairs. Morality is not enthroned in Politics.

The remark applies to national institutions generally. Natural Right is necessarily a part of Ethics. The Rights of individuals in a nation to a participation in Air, Water, and Land, which are general gifts of God, ought to be discussed by Morals, unbiassed by the enactments which conquest and force may have imposed. And not the Rights of men only: the Rights of all inferior creatures are a fit topic for purely moral discussion; and in all these matters, whatever results of discussion commend themselves to the general conscience, will be fitly made to prevail in the highest law and policy. When this is neglected, war or violent revolution

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at length ensues. Thus the American Union suffered her tremendous civil struggle: thus France encountered her awful internal convulsion. Are we still unable to learn that justice is the basis of all welfare? that the sweetest use of wealth is to cultivate the regards of others? that the noblest exercise of power is to raise the fallen and tenderly uphold the weak? that knowledge severed from love is as apples of Sodom, and applied for cruelty is an odious black art?

The phenomena of the present day show England to be at the crisis which a Prodicus might call "the choice of Hercules" between virtue and vice. It is a question whether our vast mechanical developments, wealth, and material science shall minister to the ignominious ease and boundless luxury of a few, to wanton and endless curiosity with plentiful cruelty and impurity; or whether the spirit shall rule over the flesh, morality over selfishness, pity and respect over reckless hardness of heart.

It is pretended by the defenders of cruelty that the advocates of Right and Tenderness aim to maintain Morals as a finished and unexpanding science. Such is the reply given (in a leader of the *Times*) by some one put up to answer Mr Auberon Herbert's noble letter; and it instructively shows where it is that we definitely separate from our opponents. By all means we maintain that Morals is an expanding science, but the expansion which we see and plead for is the reverse of that which they propose to us as growth and improvement. We say that Morality takes up as *new* topics the rights of the commonalty as against rulers, the rights of a nation as against privileged classes, the rights of women against men, the claims of foreigners to equal rights as human beings, the rights of all human beings to be treated as persons, not as chattels, and finally the rights of animals as against the human race. Surely there is much expansion of idea here; we do not make of Morals a science which was closed eighteen hundred years ago. But if we understand the writer, he calls it expansion to expand the freedom of great biologists to make themselves a curse to animated nature. All such horrors are retrogression, not expansion. If such movement become national, History warns us how, when men have become callous against suffering, every virtue is sapped, impurity quickly flourishes, and the race becomes hopelessly enfeebled.

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LOCAL CONTROL OF THE DRINK TRAFFIC.

TWO ALTERNATIVES.

From "Fraser's Magazine," April 1877.

THE time is visibly approaching at which the official rulers of this United Kingdom and of the British Empire will be unable any longer to postpone the unwelcome task of caring for the public morality, which for fifty years together their economic theories have sold in the market. Immense efforts have been made by Churches, by Societies, and by philanthropic individuals, but the vast power of corruption possessed by those who control the laws and guide the Executive is overwhelming. Ministers cannot be persuaded out of a revenue which has now reached thirty-three millions a year. The hush-money which they have accepted for complicity with distillers and brewers has been perpetually on the increase with the vice, crime, and sufferings of the people. The afflicting and scandalous contrast of wealth and poverty is more and more glaring. Crime of husband against wife, cruel neglect of children, misery and impurity through orphanhood, are a shameful reproach to our fundamentally religious and philanthropic nation; yet, distracted by numerous political objects, we (the people) have never yet been able to effect such a union against the Mammon-worship domineering in high places as alone can overthrow the evil. But the terrible magnitude of the mischief has been confessed by successive ministries. Archbishops and an organized hierarchy avow and deplore it. Wales, Ireland, or Scotland would put a sharp bridle upon it, if England would let them act alone. The great towns of England herself would effectually control it, only that through a cunning juggle they are outvoted by the little towns. Politically our philanthropists have had a tedious and difficult battle to fight against private and public cupidity; but at length it is clear that men long blind are opening their eyes to the fruit of the system which they have

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inherited. It has made the Crown a sleeping-partner in the drink traffic, and has exalted its conductors to a pitch of wealth and power very inconvenient to a ministry. Parliament ignominiously sits on the beer barrel. The thirty-three millions a year are to every ministry like the proverbial wolf which a woodsman holds by the ears. To keep him is difficult, to let him go is dangerous. Their position is becoming worse than embarrassing, when the best *men* of every class, and *all the women* who see the public miseries, condemn the deadly policy of bartering national morality for payments to the exchequer. That this base object has been at the bottom of ministerial policy, is quite clear in the outline of the history; but here it suffices to allude to the fact. The mode in which those in power fight to retain the public immoralities proclaims the quality of their motives. As one example out of several, see with what tenacity the Sunday sale of intoxicating drink in Ireland is kept up, after it is visible that Ireland disapproves, and after the English Parliament has voted with Ireland. *Trickery* is here the only right word; but *trickery* cannot in the long run support any cause. In this matter, as in several others, national indignation is ripening. Many old ways will have to be reversed, among which the treatment of the drink traffic has quite a leading place.

Before the crisis arrives, it behoves us carefully to consider what remedies the disease requires. After so long a contest, if anything decisive be done, the change of law will probably be called final; the new system will be upheld by the weariness of statesmen for thirty years more, or if it be too severe, a reaction will set in. Moreover, every sham remedy is sure to introduce new evils. Such is the Gothenburg system, which makes the local public absorb the gains of the drink traffic. That very matter which has sapped the honesty of our ministries, as guardians of the public morals, this system would introduce into every locality. How an intelligent gentleman, much respected, of whose future many form high hopes, can approve and promote it, may seem marvellous. "A gift corrupteth the heart of a judge." Those who have to restrain the traffic, must not share its profits.

Among those who have as yet no fixed judgment what is the best remedy—men who have taken no decisive part—one often hears the remark, that for local control endless experience and daily observation show that the existing magistracy (at least in the towns) is not at all the right tribunal. Lord Aberdare, when

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he was Mr Bruce, commended the principle of giving to the local public some control over the traffic. The local public are the sufferers by its excesses, and are therefore the fittest body to hold the reins, provided that you do not debauch them by making them conscious partners in its profits. In fact, it is understood among those M.P.'s who vote for the second reading of Sir Wilfrid Lawson's Bill, that in so doing they vote only for its *principle;* and they understand the principle to be, that of POPULAR LOCAL CONTROL. Precisely for this principle the Manchester National Reform Society has declared itself with astonishing unanimity, while carefully refraining to identify itself with Sir Wilfrid's Permissive Veto. In fact, another measure already before Parliament equally is based on this cardinal principle, namely, Mr Joseph Cowen's Bill. Unhappily (as the present writer thinks) Mr Cowen has added a secondary scheme, admitting the iniquitous, monstrous, and pernicious idea that publicans deserve compensation; on which account the system alternative to Sir Wilfrid's cannot here be characterised by Mr Cowen's name, but must be called Control by Local Elective Licensing Boards—that is to say, Boards which have *full* control of licences, *as complete as the magistrates have had* any time this century. It is necessary to insist on this, for magistrates' clerks now allege that Mr Bruce's and Mr Cross's Acts have *lessened* the magistrate's power to restrict the traffic; nay, magistrates themselves confirm this. How very dishonourable to the two right hon. gentlemen! After speeches of vigorous indignation against the evils of the traffic, did they *intend* to tie the hands of the magistrates against it? or were they too dull-sighted to discover the purpose, when sly amendments interposed clauses to this effect? Indeed, considering *Mr Cross's* efforts to give extended hours to the sale—efforts in parts successful—it is hard to believe that the weakening of magistrates' hands by *his* Act was unintentional and unforeseen. Be this as it may, the two alternatives here considered are, the Permissive Popular Veto, and the Popular Control by an unfettered Licensing Board. Lest any mistake be made by his friends and by those of Sir Wilfrid Lawson, the present writer craves leave to state that he does not change one whit his approval, *per se*, of the Permissive Veto, if we can get nothing better, but continues his advocacy of it by the voice and by the pen. Whichever of these alternatives we can get *first*—if it be but pure and simple—he will gladly accept, and count it great gain. But in its own nature the

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Permissive Veto does not grapple with the entire question, and Sir Wilfrid himself treats other measures as, not antagonistic to it, but supplementary.

Suppose Sir Wilfrid's Bill to be carried into an Act, and let us try to analyze the results, both immediate and more remote. First of all, there are certain towns and neighbourhoods which would instantly adopt the Act, and by a two-thirds majority would forbid the magistrates to issue any licences at all. Wine merchants, as well as retail sellers of malt liquor and spirits, would have to remove their stores over the border, if they could get a licence on some neighbouring area; else they must sell their stock as best they might. Next, where the local public is not ripe for stopping the traffic, one of two results might happen. On the one hand, in proud confidence that the Permissive Act would *not* be adopted, the magistrates might freely give new licences to immigrant dealers in intoxicants, who were disabled from carrying on the trade in their old quarters: thus the district would become, more than before, a focus of drink stores, for the supply of the drinking minority on an area which had put the Permissive Act in force. To make the meaning clearer, take actual names of places. Suppose that in the south of Wales, Cardiff, Swansea, and Carmarthen adopt Sir Wilfrid's Act, and stop all licences; and thereupon the drink sellers remove to Bristol and obtain licences from the magistrates there. Then the wine drinkers of these Welsh towns may perhaps send to Bristol for their wine, and ale drinkers for casks of ale. But if in Gloucester the teetotalers, though not strong enough to carry a two-thirds vote, are strong enough to alarm the magistrates, it may become harder than before to get licences there. Conscientious magistrates will be morally strengthened, reckless magistrates will fear to exasperate the public; and without any direct use of the ratepayers' new power, the magistracy may become animated by a new spirit. The publicans also, in dread of the sword hanging over their heads, will be on their best behaviour. Thus in Gloucester the evils of the traffic might be sensibly diminished, while in Bristol they might be even increased, through the competition of new shops. After two or three years' experience, when it became manifest that Cardiff, Swansea, and Carmarthen were vastly better for the banishment of the drink, and Gloucester improved by the lessening of the traffic, while Bristol was worse off than ever, the Bristol public would feel more severely the scandal and the expense of

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vice and of crime and of the punishment of crime; and the contrast of Gloucester would make many persons, who esteem teetotalers fanatical, desire greater severity in the magistrates. The permission to annihilate the traffic, and the visible fact that in some places it had been annihilated, would certainly affect the minds of all. The backward places would suffer longer, but in four or five years would inevitably crawl on. The whole trade would wish rather to be restricted than to be annihilated; and the sincere reformers who (no doubt) exist among magistrates, among brewers and distillers, might become masters of the policy. Thus a great and very sensible improvement would take place everywhere, even where those who are willing to suppress the public sale entirely are far from being a two-thirds majority. It is not true that Sir Wilfrid Lawson's Bill would do *nothing* in the places in which severe control is most needed: yet even if that were true, it would be no reason for not enacting it for the benefit of the places which desire it. Its restrictive and compulsive force would undoubtedly travel far beyond its own apparent area, to the great advantage of the country. Nevertheless the fact is undeniably important that this Permissive Bill is an incomplete measure, and that new legislation would be needed after it; for which reason it may be most gravely doubted whether Parliament will ever accept it, pure and simple. Those who now vote for its second reading, profess merely to vote for the *principle* of the Bill, which means, as above said, the principle that the local public ought to have the control of the traffic; but this does not really pledge them to Sir Wilfrid's Bill. The same men who vote for the second reading to please their constituents may vote against the third reading, with perfect good faith and sincerity. They justly deprecate chronic embroilment in any topic. After a long struggle they want something final, and they see that Sir Wilfrid's cannot be final, if carried pure and simple: hence indeed many nourish an aversion to it greater than they choose to express.

But it is well to explain more closely why Sir Wilfrid's Bill is not and cannot be final. His original draught was modelled on the Maine Law, which provides a public officer to sell liquor for the State under instructions. This officer has a fixed salary, and has no gains from the sale; nor does the State seek for gains. Sir Wilfrid cut out all this from his Bill, on perceiving that his opponents would defeat it by pertinacious objections against the new system of sale, evading his main argument: therefore, to any one who says, "How are we to get spirits for medicine, or for

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varnish, and other mechanical uses," he virtually replies, "If you want the articles—which I do not—it is for you to suggest some method of supply which does not demoralize the public; lay such before me, and I will consider it respectfully." But he cannot deny that distilled or fermented liquor is legitimately needed for certain purposes, and that it *must* be sold. The Maine Law admits this, and acts upon it. As soon as a single place uses the permission to extinguish licences, an outcry would arise for the local sale of wine and brandy as medicine at least, and of spirits for mechanical and chemical uses; hence it is sure to be anticipated by amendments while the Bill is in Committee. Now this matter of medicine is both complex and dangerous. While arsenic, strychnine, and vitriol are in use, we cannot forbid alcohol. Enlightened physicians may almost or wholly disuse it, but there will long be many who cling to it. How few men there are, but at any time could get a physician's order to take two or three glasses of port wine *every day!* a law would be of little avail to restrict, if it gave authority to a physician's order for the *dietetic* use of wine. On the other hand, it would be iniquitous to require that, to get medicinal wine worth sixpence, one must pay five shillings or a guinea for a physician's order.

It is worth while contrasting the American procedure. In Maine or Massachusetts a native Yankee presents himself to the public agent, and asks for wine, saying he needs it for his health. The agent does not demand a physician's order, but scrutinizes the applicant's face, and especially his *nose;* in which, discerning suspicious purple lines, he flatly replies "No!" Presently Mr Plimsoll similarly presents himself, asking for wine on the same medical plea. The agent recognizes his face as British, and is aware that he is an M.P., *and a teetotaler.* Forthwith making sure that the wine is wanted for a good purpose, he promptly complies. Mr Plimsoll returns to England, and declares in Parliament that the law is a dead letter, for that *he himself* got wine from the public agent with perfect ease! He forgot that everybody is not Mr Plimsoll; and he was unaware how keen in physiognomy, or, indeed, in *rhinognomy* (nose-discernment), a public agent may be. But so simple and old-fashioned a despotism is fitted only for a small community; a Solomon on the Bench is not yet even imagined by an English M.P. To return to the wine question. Say what we may on the very important advances of men at the head of physiological and chemical science towards the hearty approval of total abstinence, we are yet fifty

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years off the time when our richer classes will universally renounce that use of it which is called *moderate;* and Sir Wilfrid's Bill cannot escape an amendment to make the sale of wine in quantities not less than twelve quarts entirely free, without licence. It will be urged that it is only by malt liquors and spirits that the poorer classes are cursed; why then put into their hands the control over the wine of the rich? If (as is entirely to be expected) such an amendment be carried, we suppose that Sir Wilfrid would withdraw his Bill, to judge by the earnestness with which he contradicts the report that he excepts wine merchants. Again, it is not to be expected that any Parliament, however they may wink at it on a rustic area for the benefit of a great landlord, will consent totally to extinguish, in any place of shops a sale of alcohol confessed by all to be in certain cases legitimate. If the old system is destroyed, they will demand simultaneously a new system for this legitimate sale, which the ratepayers shall be unable to forbid. But if the new system is brought in by a set of *amendments* in Committee, instead of being previously laid before the public, and fully debated, *no satisfactory result can be expected.* This incompleteness of Sir Wilfrid's measure, as now before us, is an objection certain to be made when the crisis is at hand. He does not like the responsibility, it seems, of constructing a new system. Well; but is there not danger that others will *suddenly* take up the problem from which he shrinks, and *suddenly* carry into law regulations of which he and we disapprove? *If* Parliament will pass his Bill just as it stands, then concerning after measures the country may take its time, and gather up all its wisdom. But, apparently, there is little chance of this. It will be insisted that a confessedly legitimate and necessary sale for medical, chemical, artistic, not] to say *dietetic* use, must not be stopped *entirely* even *for a single week, in a single town.* A new legal mode of sale must be devised (it will be said) *before* the old mode is forbidden. Of course, we know that the present system will not be at once everywhere overthrown. To revert to our former illustration, when the sale is stopped in Cardiff, people in Cardiff will be able to supply themselves from Bristol, and *time will be gained* for new legislation. Whether this argument will avail with any possible Parliament, remains to be seen.

Sir Wilfrid, in his humorous and pleasant way, treats opponents as friends who will bring a *supplement* to his Bill. He so spoke lately of Mr Chamberlain and the Gothenburg system. His Permissive Veto would co-exist with the power of our

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magistrates, and equally with any other system of licensing! Speciously said; but could it co-exist with a free trade in wine, which a total refusal of licences could not stop? The tangle here is very serious, because the wine merchant's trade has been diligently relaxed from wholesale to retail; *the distinction has now to be rebuilt*. In New York the spirit trade was forbidden in 1837; but the result was that the wine (so called) was more highly brandied, and the total consumption of spirits was not lessened. The *regulation* of the trade is inevitable; it is a most difficult task, and it cannot be wisely done by mere amendments of a Bill for Public Veto.

In remarkable contrast to a mere Permissive Veto is a concession of Elective Licensing Boards. This will be really and truly final, so far as Parliament is concerned, if the *entire* power over licences be granted to each locality. Every M.P. would rejoice to feel that the question will never again embarrass his relation to his constituents, and that the responsibility of Parliament in the matter is at once and completely ended. Surely this consideration would immensely facilitate its passing with the House, in contrast to Sir Wilfrid's Bill pure and simple. Next, a Bill for Licensing Boards evades a second stone with which Sir Wilfrid's is pelted. It is said to the latter: "You profess to place trust in the local community; yet, in fact, you clearly distrust it; for you will not allow it to do anything but totally forbid the sale. It might desire to cut down the number of shops to one quarter, or to one-tenth, but you will not allow this. Or, again, it may wish merely to forbid drinking on the premises, or else to lessen facilities of retail without forbidding large sales, as of a pipe of wine or a hogshead of beer. Here also you show distrust of the public." Nothing of this can be said against a complete transference of power to the locality, as hitherto to the magistrates. Thirdly, what is signally important, if Elective Licensing Boards be enacted with full power to act according to discretion, different systems will be adopted in different places, and experience will very soon show their separate excellencies or defects. Experimental legislation is impossible when it has to operate on a body of 32,000,000 persons. Sir Wilfrid's Bill does not provide for any other local regulator of sales than the existing magisterial system—a system notoriously incompetent to conduct experimentally new methods of sale with a philanthropic and moral object. Any new regulations required by the local stoppage of licences will have to be made by a

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central Parliament, and by means of that fertile source of inconsistencies and damaging clauses—amendments in Committee. But when a Board is elected in an intelligent municipality, with the *sole duty* of so conducting the sales as to supply all that is really legitimate with the smallest risk to the public morals, the problem will be undertaken with prodigiously greater advantage than is possible either in a Committee of the whole House, where a Chancellor of the Exchequer may whisper, "Mind! you must not damage my Budget!" or in a *coterie* of magistrates, who move in traditional routine; who, moreover, are often appointed to the task, one because he has a certain landed estate, another because he has the title General or Colonel. A political proverb says, "New brooms sweep clean." Every Licensing Board elected in a great town—that is, in those centres of population where the miseries from evil drink are worst—would feel great responsibility for executing its task well, and would have much honour to earn. It would not be distracted from its single high and sufficient problem by the multifarious duties which fall on town councillors. Pride and ambition would concur with philanthropy and patriotism to make each anxious and diligent, eager to learn, and firm to execute. The electors would agree in claiming of the elected to reduce the evils of drink to a minimum, and in some cases would make definite suggestions or stipulations. One place would quickly learn wisdom of another, if each town had the full responsibility for its own evils. The palace-like jails which now disgrace our civilization, and cause expense so vast, are chiefly the fruit of this pernicious trade; and the ratepayers will insist on quick abatement of the evils, when they get power into their own hands. What shadow of reason is there for doubting, that such sales as are necessary and inevitable will be far more sagaciously managed by a Local Board which the ratepayers elect *for this sole purpose*, than either by magistrates who are irresponsible and do not suffer sensibly from the public vice, or by an *irresponsible* and *multitudinous* Committee of Parliament? Finally, a Board elected for this one duty is immeasurably better than the Town Councils, who are distracted by an immensity of other business. In Scotland we see experimentally that this organ wholly fails. What else then is possible? Why distrust an elective Licensing Board? Let us keep fixedly in mind, that if our whole nation were to become ardent teetotalers, and had accepted the Permissive Veto, not the less we must have some mode of selling alcohol when demanded by physicians and

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surgeons (who need it for embrocations and tinctures, even if they renounce it as dietetic beverage or as potions); also, what is less liable to abuse, alcohol is needed in varnishes, paints, and chemicals. Let the Right Hon. John Bright and teetotalers reply: what authority can be trusted to guide all the details of the sale so safely as a small local Board elected annually by the ratepayers? Such a Board should have full power to frame its own restrictions, so as to prevent the fraud of wine merchants or chemists degenerating into spirit shops, without needlessly harassing drinkers who insist that their two or three glasses a day do them good. Now that the tide has turned with scientific men, will not these "moderate drinkers" die out without further harm to the public morals?

Three or four different systems of regulation may at first arise. A few years' trial will decide which is best. Active interchange of experience and thought is certain to take place: indeed one of our existing temperance magazines might become a common organ to many towns. The flexibility of local freedom, the emulation of different Boards, and the co-operation by mutual consent, would conspire to work out the best attainable results. To secure sufficient responsibility, no Board should be numerous: *five* or *seven* persons may be a full maximum, and no Board should have a vast constituency. Therefore our greatest towns ought to be divided into areas with suitable numbers, and have Boards separately independent. With a few such precautions, the system of elective Licensing Boards, which can impose despotically their own conditions on the licences, but without power to bind their successors in the next year, appears to be a complete solution of the problem. If Birmingham then chose to try the Gothenburg system, this would not give to publicans any *right* of compensation, and we may hope that the bad example of the ruling power becoming partner in the trade would not find many imitators.

Sir Wilfrid Lawson's Permissive Veto has one apparent advantage in having been so long before the country, and having received applause from so many great populations. Paradoxical as it may at first appear to say so, this is really a weakness to it in Parliament. Many of our legislators have been accustomed to speak of it with contempt, and cannot easily change about into approval. When a Minister brings in a Bill, he does not like to adopt one which seems like claiming that the members shall change round at the dictation of large popular constituencies. He will wish to give to them the argument of

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excuse, that they have now got a *new* measure—not one made to please fanatical teetotalers—not one which on the face of it aims to stop the temperate use of wine and beer, but one which they can accept without dishonour or a sense of defeat. Thus, from many causes, a Bill for Licensing Boards is more likely to pass. But let not this be interpreted as an undervaluing of Sir Wilfrid's eminent merit and high services. He desires solely the beating down of the monstrous evil. To him is due more largely than to any other public man the arousing of the nation against it. If a more complete Bill be carried in preference, Sir Wilfrid's inexhaustible freshness of argument, his patience and untiring activity, and what has been happily called his "wise gaiety," will have been a principal agent in its success. To him our thanks and our honour will be equally paid, though the name of another mover be on the victorious Bill; and he is far too high-minded and true-hearted to care for anything else than the great moral object which he has so long, so laboriously, and so ably pursued. Under the pressure of his earnest and versatile argument, various subordinate societies have arisen, which aim at separate parts of the temperance political problem—as those for Sunday closing or for shortening hours. Not for a moment ought we to forget the high service done by the late Archdeacon Sandford in arousing the Church of England to act collectively in the cause of Temperance; yet, it is believed, even the excellent Archdeacon had his flame kindled by Sir Wilfrid Lawson and the United Kingdom Alliance. Noble efforts for a good cause are never thrown away, are never ineffectual, even when the success does not come in the exact form for which its champion was contending. It may hereafter be said: "Other men sowed: we reap the fruit of their labours."

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WHAT IS DISESTABLISHMENT AND DISENDOWMENT?

From "Fraser's Magazine," August 1877.

IT is believed that from Mr Gladstone came the enrichment of the English language with the two verbs Disestablish and Disendow, which suddenly gained currency: but of course we cannot appeal to the right hon. gentleman for their definition. We must gather it from the analogies of the language itself. It is generally assumed by the Church-Liberationists, whether in the Dissenting or Ritualist ranks, that if the State renounced its power of control over the Episcopal Church and withdrew the Bishops from the House of Lords, no established Church would remain in England. The present article, which will be very short, will aim to overthrow this notion, and to maintain, on the contrary, that every Dissenting Church which has any endowments at all, is as much "established" at this moment as is the Anglican Church, with the difference that the State does not claim to interfere with the interior management of a Dissenting Church. I shall further maintain that at present the State goes much too far in its gratuitous patronage of the faiths and fancies of private donors; and that until this patronage is lessened, and indeed changed in its nature, a grave objection attaches to disestablishment of the Episcopal Church.

When some private person, zealous for the cultivation of Sanscrit or Arabic, of Political Economy or of Ecclesiastical History, gives money or estates to Oxford, or it may be Durham, University, for the cultivation of these studies, the Courts of Law, which, in the matter of property, enforce the decisions and law of the State, do not permit such gifts to be otherwise appropriated than as the donor has directed. Evidently hereby the Civil Power, in the National Law, *establishes* every such endowed chair or endowed scholarship; *establishes* the studies themselves for which the Professorship or Scholarship is endowed. No man who is not bent on maintaining an argument, would say, that unless the endowment had come from the State,

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the studies are not *established*. In the Anglican Church itself we have like illustrations. Private persons desire to have a Bishop of Cornwall, and make large contributions towards an endowment of the Bishopric, if the State will consent. Whether money already ecclesiastical be or be not diverted into this new channel; whether Parliament do or do not make a grant to the new Bishopric; even if its funds come entirely from private sources, it is justly counted *established* from the day that the State consents to watch over the due appropriation of the funds which have been collected.

When an individual, "of his own mere motion," as lawyers say, gives and appropriates money to a specific object, the State may behave in one of three ways, different in principle. *First*, it may deliberately refuse to take cognisance of the gift, virtually saying to the donor: "You give at your own will and fancy, without consulting the State: you have no right to set us at work in enforcing your special desires. If you choose to make a gift out and out, so that your property is simply transferred to another, who holds it in full possession and entire freedom, then we shall protect it just as we protect the property of every citizen. When you hamper it with conditions, *you ought to let us judge of the conditions;* but now, you must take the risk that the holders whom you mean to be mere trustees of the property may take it for their own private use." *Secondly*, the State may treat all property as *ipso facto* confiscated by the document which bestows it on an unlawful corporation, and may define a corporation as "unlawful" when it has not been created or licensed by the act of the State. The application of this principle under Pagan Emperors of Rome to Christian endowments, not rarely, it would seem, caused their confiscation, and perhaps led further into accusation and punishment of persons which we traditionally account persecution. *Thirdly*, the State may be so complaisant as to say, especially to rich men: "Count your property as yours for ever; yours, after the grave has closed over you; yours, to dictate to after-generations what shall be done with it; yours, to enact what shall be taught as true, as right and as holy; and we, the State, careful for the pride of the wealthy, careless of the interests of the public and of posterity, engage freely to enforce your will and judgment according to the details of any documents which you sign." Virtually and in fact, the third is the principle which now guides the Law Courts, and is assumed by most "Liberationists" to be *the natural and only just course*. Not that it ever was *intended* as

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a bonus to the rich: indeed, as regards the members of the Episcopal Church, which of old had nearly all the wealth, the principle was never so acted on as to touch ecclesiastical doctrine or discipline. The donor of property never attempted to impose on futurity his judgments concerning such matters, though he might make laws as for a boarding house or for a school, prescribing the dress and food of the poor men or boys whom he meant to favour. The real reason why statesmen became so lenient and complaisant towards the funds given privately or bequeathed for supporting the chapels and ministers of Dissenters, was, that as soon as the law ceased to persecute and began to tolerate them, Parliament secretly confessed to itself the hardship and unfairness with which it treated them, in excluding them from the National Church and Universities and the endowed schools. A certain pity for their unequitable position, and a desire that Dissenters might furnish themselves, if they could, with education and ministers, led legislators and judges into a course which really *established* the Dissenting Churches, Schools, and Colleges. They had no intention to give a premium to wealth, nor is it likely that they foresaw this tendency, while so many and fierce interests were struggling. But now, instead of admitting that the conduct pursued in the past, while otherwise the Dissenters were treated unequitably, is a permanent rule of morals and a right of every citizen; we ought to open our eyes to the fact that it is at best a transitional policy, not a principle of State morals, nor indeed endurable as a general principle. It may be doubted whether English sentiment would allow Parsees to erect in England "Towers of Silence," where the body of the deceased is to be torn by some ravenous bird; though carrion crows and ravens will serve instead of vultures. The Americans of the United States ill bear Mormonites in Utah, nor perhaps should we endure them in this country, though Polygamy is a pure institution in comparison to the established and regulated harlotry of Paris and other Christian cities. In short, what seems to settle the question,—it is certain that if Theodosius had not suppressed the Pagan temples and all their appurtenances,—if temples endowed to Jupiter and Venus, to Juno and Mercury, had come down to these modern times, and priests to these temples claimed that the Law Courts would forbid a diversion of the funds from the intention of the Pagan donor, scarcely a voice beyond those of the persons having "vested interests" in those funds would be raised in favour of

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enforcing the donor's will. The fact of corporate property coming from private sources (of which our "Liberationists" make so much) is really quite a secondary question, and of very little importance: corporate money is not private money. When money is given unconditionally by one man to another, private it was, and private it remains: but as soon as a donor bestows his money to act on society, or, to put it amiably, bestows it for some public benefit, as distinct from domestic service and possession, his money ceases to be private. If funds for teaching astrology or even Ptolemaic astronomy, or the Manichee doctrines, or the secret rites of the Cabiri, or the Eleusinian mysteries, had come down to us from Greek antiquity, we should treat it as alike absurd and pernicious to regard the property as private, and to pronounce the intention of the donor concerning it sacred and binding on us. Indeed, in counting that the State would watch over the application of his moneys and enforce his will as to their expenditure, he *assumes* that he has the State's approbation of his objects, and is not in truth so unreasonable as to expect its aid in enforcing what it disapproves. When no reason for disapproval appears, and on that account the Civil Power, by the routine of its Law Courts, watches over and enforces the appropriation of the funds,—from that day, I say, the Church or School or College to which they are given becomes an *Established* Church, School or College. Not only so, but the State does not forfeit the right to reconsider at any time the propriety of continuing to enforce the donor's will concerning the disposition of his funds; nor can these justly claim any of the sacredness conceded to private property, to which they are nowise co-ordinate, except possibly so far as individuals have a legitimate life-expectancy from them.

So far, progress is made towards answering the question, What is Disestablishment? If we are to disestablish, we must apply the principle to *all* Churches,—to Dissenters, Protestant or Catholic, as well as to Protestant Episcopalians and Scottish Presbyterians. The funds of Dissenters have no greater claim to be regarded as private, than the funds of the Anglican Church; but such regulations should be made concerning them as will conduce to the best interests of society. It is to be hoped, and it may be reasonably believed, that no Parliament will apply to any objects but religious and educational the funds which have accrued round any Church in whatsoever way, as certainly it would not confiscate for miscellaneous public use the endowments of literary and scientific professorships. If, when Bishops cease

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to be Lords, Parliament chose to apply (after the death of the holders) the whole Episcopal and Archi-episcopal revenues to national education under State supervision, that would be an application of the property which is not here censured: nevertheless, that side of the question is here maintained to be quite secondary. My main point is, that a partial disestablishment, by which the State abdicates its right of appointing ecclesiastical administrators, officers and judges, but continues its effective, its overwhelming aid, to perpetuate the warring creeds of past ages and of private men, is unequitable and clearly mischievous. It may, if so it think good, leave the whole property in the hands which now hold it, under such conditions as it approves. In abandoning control over vast national funds, it may, if it please, insist on breaking one huge corporation into many; for instance, it might refuse to acknowledge a single Episcopal Church in England, united by Archbishops and Convocation, and might recognize as many corporations as there are bishoprics, each with its separate funds. So long as the State secures to the corporation which of its own pure grace it recognizes, some possession of property that yields income, many modes of behaviour are just, though probably the choice of expedient and politic courses is very narrow. But the one thing which it ought not to do, which is essentially wrong, is *to enforce the teaching of opposites*, which involves the compulsory teaching of falsehood. If the case of science (which is closely akin to that of religion) came on for decision, the judgment which we should form would be all but unanimous. Who would justify the State in compelling one corporation to teach mediæval doctrines of chemistry, and another to teach those of Sir Humphrey Davy, a third to teach those of the most modern school, forbidding even the last to make any further progress;—and all because well-meaning men, each in his own day, left money for teaching chemistry as each knew it? Law which undertook this task, would be an artificial machinery for perpetuating falsehood. But the mischief of a false chemistry thus perpetuated would be small compared to the mischief of a false religion. It is wonderful that Dissenters who claim to be liberal and free of mind, do not see the monstrosity of such State law as directs its Courts to say to one corporation: "You must and shall teach Mr Spurgeon's Creed, or we shall deprive you of your funds:" to another corporation: "You must teach the Creed of Pope Pius, under like penalty:" to a third: "You must teach as Bishop Charles J. Blomfield or as Mr Simeon believed:" to a fourth:

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"You must teach the Creed of Dean Milman," and so on. If the State law enforce, that funds bestowed for chemical teaching shall be applied to that purpose, it must simultaneously insist that the teachers shall teach *freely*, and must treat as unlawful and invalid any clauses in trust deeds or foundation statutes which prescribe the chemical doctrines to be taught, and virtually impose a chemical creed. By the very same argument all imposition of religious creeds in trust deeds and other documents must be declared null and void. The existing holders of the funds, those who are in authority, whatever the corporation, will, no doubt, generally strive to promote their own traditional doctrines. Catholic Trustees or Bishops will appoint Catholics, Simeonites will appoint Evangelicals, Baptists will appoint Baptists, Unitarians will appoint Unitarians; there need be no sensible confiscation, and existing opinions in each corporation will propagate themselves quite long enough. But if the State refuse to sustain the separate and conflicting creeds by its active aid, the minds within each corporation which struggle up towards light will no longer find the enormous power of public law arrayed against them. They will merely have to contend with the prejudices of their own co-religionists, and, as in science, so in religion, truth will prove in the long run stronger than error, when the State ceases to enforce the teaching of any creed. Until it ceases, Disestablishment is scarcely begun, nor is the creed Disendowed.

Therefore the first business for Mr Miall and his coadjutors is to pray that Parliament will enact that all clauses in religious trust-deeds which dictate a creed shall be accounted invalid in law. Then they will come out honourably clear in their attack on ecclesiastical endowments, not before. By the compassion or the inobservance of the State they have got into a position of unfair advantage, which had a partial justification only while they were excluded from the national endowed establishments;—viz., they now have State support for their creed without State control of any kind or degree. Since they have become admissible to the Universities a breach has been made in the argument which could be urged for them: it will be broken up entirely, the moment the Episcopal Church ceases to have national privileges. These Protestant Dissenters, who now include a very large majority, not of the Independents and Baptists only, but probably of the Wesleyans also, and perhaps of the younger Unitarians, ought, I think, to be excited to new thoughts by observing that *the Ritualists are on their side*, and that their policy is precisely that which delights

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the Catholics. In the Catholic view the State ought to be simply the servant of the Church. It ought to give its powers freely, without control, interference or conditions. If it can get State power it does not care about State funds: it will squeeze these out of its members, and after once it has clutched them, will claim that the State shall maintain them. Every generation will add something to the past: ecclesiastical wealth will accumulate from the "dead hand," and the State shall (with or without its will) enforce the perpetual teaching of the Catholic Creed. Possession of *landed* property by a great and despotic Church is of all property most dangerous to the State. Painful experience has taught the Mexicans that the Church must not be allowed the possession of land, further than is needed for an edifice and its precincts, nor any revenues from land. Nearly the same general remarks will apply to all the Protestant sects, but of course more feebly. Especially since they have less power of extorting money from the laity, their creeds will have less advantage in this career than the Catholics. Every Church whose creed is thus supported by the Law without State interference in the ecclesiastical appointments, naturally tends to intellectual degeneracy. For in each generation its most active minds, zealous for truth, find one or other point in the creed which they cannot accept: but as they are generally a minority, they are accounted "heretics" and driven out. The residuum of the Church, the slower minded, are naturally conservative of the traditional creed, and those teachers who are triumphant over their expelled rivals teach the strict creed more diligently. The same expulsion recurs in a second and a third generation. The atmosphere of the outer world *may* hinder such a development of events; but if the Law support the creed, indifferent to its truth and to the mental qualities of the men who deny it, a great premium is given to stagnation and even to hypocrisy and bigotry. Thus the *tendency* of the conjunction certainly is towards mental degeneracy.

If the mass of our Protestant Dissenters desire to perpetuate what they see in Ireland and in New York, and to give to the Catholic Church the greatest facility of aggrandising itself, they can hardly do better, with that aim, than to get rid of State control over the Anglican Church, while maintaining the action of the Law Courts to enforce sectarian creeds indiscriminately. Indeed the Anglican Church, once released from the State, certainly will not be helpless, nor unvexatious to Dissenters. On this an ample argument appeared in *Fraser's Magazine* for June.

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But if our Protestant Dissenters have a pure desire for freedom, truth and public welfare, as their end, and the downfall of Episcopal ascendency only as a means, there is no more direct method, no course more likely to win over all the free-minded, all who call themselves Liberal, than by invoking on and for *themselves first* the non-support of their creeds by the Law Courts. The late Mr Binney told his fellows of the Congregational Churches, that they were as much enslaved to their trust deeds as the clergy to the Thirty-nine Articles and Liturgy: but that is a separate topic. Here it is urged that after they have purged their own Churches of State support, they will have fourfold moral power to carry out the same principle against the Episcopalian Church.

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ON THE WAR-POWER.

From "The Contemporary Review," Nov. 1877.

IF the territory of one State (A) is invaded by the armies of another State (B), it will generally be regarded as the obvious duty of the executive of A to repel the invading force without waiting for any express national concurrence; especially if the hostile act be avowed as an act of war, in which case the loss of time in civil debate might be disastrous, and the very fact of hesitation might imply weakness and bring dishonour on an aspiring and powerful nation. But if the territory thus invaded be an outlying possession, if the invading State (B) allege that it does not intend aggression and war, but only to occupy what is its own, then, though the rulers of A may think their own right ever so clear—nay, though they be fully persuaded that the pretences of B are insincere, still it does not follow that it will be their duty at once to accept the act as war, and declare that it is forced upon them. For there is this terrible peculiarity in war, that it inflicts unlimited suffering, unlimited chastisement for a finite offence. To compare great things to small, it sometimes may be parallel to the case of cutting off the hand of a thief because he has stolen one's pocket handkerchief; but besides, the suffering of the victorious combatant has to be estimated. Small quarrels of this sort concerning land in America have both threatened and caused war to Great Britain. We actually fought with France about the winter-land of Acadia, peopled by French colonists. We came well-nigh to war with the United States about Oregon; also about an island which one of their generals had occupied. Evidently in such cases distant contingencies, complex considerations, are involved, but no sudden and pressing danger. If the available wisdom of the State A were collected by public and calm deliberation, it might very possibly pronounce to the following effect:—that the proceedings of B have been injurious and must be resented; that in the distant future or even in the near future great evil may result from acquiescing in them;

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nevertheless to inflict on both nations so great an evil as war, is at least premature; that mediation by a neutral power must first be attempted, and remonstrances be sought; that the State B, which professes to be acting on righteous principles, may perhaps be put to shame if other States reprove her conduct; moreover, that in their disapproval she may see reason for fearing grave disadvantage if she force A into war; that to postpone a war sometimes hinders it entirely; and, at the last, the war will become more dangerous to B—if come it must—through calmness and moderation in A, which unite and confirm the patriotism of the invaded State, while in B divisions will arise at every partial reverse.

Something similar to this happened at the beginning of the Crimean war. The Emperor Nicolas suddenly sent an army across the Pruth and occupied Jassy, avowing that he did *not* intend war, but took possession in order to attain "a material guarantee" that his demands on the Turks should be attended to. In fact, he presently had all Moldavia in his grasp. The Sultan, Abd el Mejied, at once ordered Omar Pasha to occupy Wallachia, so as to put a limit to his encroachments. But the influence of the Western ambassadors, who dreaded that a general war might follow, counteracted this order. Russia occupied both the Principalities instead of one only, and used their resources and their human inhabitants for her military service against their suzerain. The Turks chafed under this for near three months; and then, seeing that its Western allies thought more of soothing the Emperor Nicolas than of maintaining what they regarded as their rights, at last declared their acceptance of the war, to our great displeasure. But, even so, this was not done by personal will, nor by a single party in ascendency. Their largest council was consulted, and the act was strictly national.

No country can have any pretence to well-organized institutions, and not make it an axiom that in so terrible an undertaking as war, the whole nation shall, *if possible*, be deliberately consulted: for all have to sacrifice—not property only, but what is far more grievous, the lives or limbs and health of sons, husbands, and fathers. In national affairs a minority must, even in the best-ordered States, submit to the majority; but as in a trial at law an accused person has a right to *be heard* in defence, so in the public councils a minority which will have to suffer has a natural right to be heard in deprecation, if perchance it may

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persuade the other side. Especially is this a thing to be insisted on in a nation which, as England, takes its executive avowedly from one party. Under our older kings, even under Queen Elizabeth, when the Privy Council declared war, the declaration came from all sides of politics; for *all* members of the Privy Council then took part in the deliberations, and each was personally, legally, responsible for the vote which he registered. All this has been evaded and reduced to nullity by the ambition of the successive Cabinets; the ministers on each side undermining the Privy Council and personal responsibility, in order to establish Cabinet power and collective Cabinet responsibility; which seems in practice to mean, no responsibility at all. The out party absents itself from the Privy Council, in which the ministers ratify as Privy Councillors what they have privately agreed upon in secret Cabinet. Thus we have far less security against war being resolved on by the Executive without the will of the nation, than we had when the Sovereign sat in the Privy Council, and heard the advice of statesmen mutually opposed, sometimes bitterly hostile to one another.

The case of actual invasion, supposed above, may be modified. It was so in the Franco-German war. Then the French Emperor declared war for a very frivolous reason assigned, and prepared to invade the Prussian territory with no definite claims to be sought by victory. This made war inevitable, and left no time for the King and ministers of Prussia to consult the nation. They knew too well the miseries of having a hostile army in Germany. Seeing the war to be forced on them, they naturally and rightly determined that, if possible, it should be fought on French, not on German soil. This is a clear case in which the existing Executive rightly accepts, on its single responsibility, even the dreadful necessity of war with a first-rate and equal power; but it only accepts what is clearly unavoidable. The initiative is with the invader; public deliberation cannot avert the evil. The Prussian King was able to say with simple truth, that he knew no higher duty resting on him, than to collect and direct the national forces for the national defence.

No reasonable man will grudge such war-power to the Executive of an invaded nation, although the rulers of a nation are not commensurate with the mere Executive; in a higher sense the deliberative organs, the legislature, are the rulers, who on every great occasion, which requires public sacrifices, ought undoubtedly to be consulted. It is to be feared that our Cabinets inherit a

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crooked and sinister policy in this matter. They seem to have been gradually corrupted by the Colonial and Indian empire, and by the irresponsible position of our ships of war when they hover on the coast of peoples who are not included in our diplomacy. Each ministry in turn covets the initiative of military action. It knows that it *must* be responsible to Parliament after the event, but it shuns and postpones debate in Parliament as long as possible. By this very proceeding, one may safely assert, the Crimean war was caused; that is to say, a free debate in Parliament in July or August, 1853, would have revealed to the Emperor Nicolas the temper and spirit of the British nation; and if he had known that he was bringing on himself an English war, he would, in that early stage, assuredly have retraced his steps. But the Prime Minister and Foreign Secretary implored Parliament to keep its lips shut, declaring that only in its silence could there be hope of peace. Each was sincere; they were trained in the diplomatic notion that the only right thing is for a ministry to keep war and treaties in its own hands, and not permit a popular assembly to be consulted in the early stages. The Blue-books are issued in general after the crisis; and the theory of ministers is, that manifest facts, without official information, do not suffice for Parliamentary debate on foreign affairs. British indignation at the Russian invasion of Hungary, and at the conversion of Austria thereby into a tool and satrap of Russia, would have ensured an abundance of bold and indignant expression most valuable at that crisis. The wary, cautious Nicolas had sounded our ministers for nine years back, and had made sure that he would *not* have to meet us in war; nay he told Sir G. Hamilton Seymour, early in 1853, that as long as he had the approval of England, he had the one thing necessary. By jealousy of Parliament and dread (we must suppose) of its moral enthusiasm, our ministers kept its mouth shut; and allowed the Emperor Nicolas to persuade himself that England "would never again fight a glorious war, but was imbued with the mercantile principles of Cobden and Bright." Thus he rushed forward until pride forbad him to retract. And as for our ministers, they had five months for secret diplomacy after Parliament was dispersed, and in that time managed so to entangle themselves that they could not escape the war, into which at last, against their will, against their judgment, almost against their conscience, they "drifted," such was the disgraceful phrase used by Lord Clarendon in the House of Lords. Mr Gladstone has recently

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revealed to us the important fact that the reason why they were then so unwilling to help the Turks was because of their intimate knowledge, from our ambassador Lord Stratford de Redcliffe and from our consuls in Turkey, how inveterate was Turkish misrule and oppression. This agrees with the fact that the first thing for which our ministers were eager was, to extort from the Sultan of that day various important edicts in favour of Christian equality. That *this* was the cause of ministerial hesitation, we (the public) had no cognizance. Many of us knew that there was much misrule—as in Spain, as in France, as in Austria, as in Naples, as in Rome; but that the Christian population collectively sided with Russia against Turkey we could not see, especially when the Moldavians and Wallachians felt themselves cruelly oppressed by Russia, and the Servians were forward to offer military assistance to the Sultan. Now if there had been early and free debate in Parliament, the ministerial argument would have been elicited, and might have enlightened us. The popular view may be nearly expressed thus: "Ever since the battle of Waterloo Russia has been the fountain of misery to Europe. By treachery towards the Congress of Vienna, and by false promises of a Constitution to the remnant of Poland, she kept possession of the Duchy of Warsaw, violated and suppressed the Constitution, and ere long crushed the people. By her action in the Holy Alliance and through the Congress of Verona she overthrew constitutional government in Spain, and has doomed that country to lasting misery. She has trampled down the laws and liberties of Hungary (which are as old as those of England), in order to make Austria her humble servant. She terrifies every German prince, and, through Austria, sustains cruel despotism in Italy, Naples, and Sicily. The Emperor Nicolas is a scornful and avowed hater of all constitutional restraints on sovereigns. What will he do if, besides his vast land forces, he win maritime preponderance in the Levant, by holding the keys of the Straits, and getting plenty of Greek sailors?" Against all this Mr Gladstone, in the Commons, would have pleaded eloquently, then as now, for the oppressed Christians; and would have given such reasons for lending to the Emperor of Russia a *modified* support as would perhaps have brought about, without a Crimean war, a better state of things in Turkey than the war produced. So much is in the direction of showing how little SECRET DIPLOMACY has to boast of, in respect to that great and distressful war. Not only were the lips of lovers of war shut

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in Parliament, but Mr Gladstone's arguments also were suppressed by that erring policy, that jealousy of Parliamentary out-speaking.

The Syrian war, about fifteen years earlier, was a still more startling exhibition of the rashness, the ambition, and the self-confidence of an Executive. In fact, without any permission from Parliament, it undertook three great wars at once—a war against China in defence of opium-smugglers; a war against Afghanistân, to put on the throne a prince who should be our creature and obey our commands; and thirdly, the war to snatch Syria from its conqueror the Pasha of Egypt, and restore it to the rule of the Sultan. This last war, of which our Foreign Minister, Lord Palmerston, was regarded as the real author, was defended on the ground that, if *we* had not so helped the Sultan, the Emperor Nicolas was eager to do it, after which the Ottoman Empire could have had no future. But what here is of importance to the argument is the tremendous risk to which the Syrian war exposed us by the bitter resentment kindled in the French nation—that is, in French politicians of every class. All these thrilled with indignation and burned for war. Louis Philippe, by the exercise of personal prerogative, to keep the peace with England discarded his Prime Minister Thiers, and replaced him by Guizot. France was not quite ready for war, but her anger was unabated; and had the Syrian war lasted until the spring, France might have come out as our antagonist. But the wonderful efficacy of our paddle-steamers, then for the first time tried in warfare, terrified the Egyptian Pasha, and brought us peace before the winter set in. Still it was a formidable risk, a narrow escape, in which no ministry (least of all a ministry which represents one party only) has a right to involve a nation without consulting it.

To argue that a popular assembly will be injuriously warlike, if it debate foreign affairs, because the individuals are free from "the responsibilities of office," is an injurious and groundless imputation. The responsibility of a minister in these days is painfully, miserably indicated by the saying of Talleyrand, that a blunder is worse than a crime. The responsibility of Lord Palmerston was about the same as that of Louis Napoleon, whose Mexican war was his commencement of ruin, only because it was unsuccessful. If it had been triumphant, it would have gained him as much credit as his Cochin-China wars. So if the Syrian war had been a deplorable failure, it would have proved more fatal to Lord Palmerston's political career

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than did that of Afghanistân, from which the pecuniary loss fell on India as a permanent memento. When to be unsuccessful is the fault most severely resented; when a ministry can decree war by its own private resolve, and success ensures it against any dangerous moral criticism, it gravitates into the ignoble and mischievous position of a bully to weak, obscure, and distant powers, whom diplomacy will not defend; and, what is worse, it is exposed to the pressure of its own officers, military and naval, who become its informants and advisers, and (as naturally as in all other professions) are eager to distinguish themselves. But a representative civil assembly, even when it counts military men among its members, has a vast balance of those whose constituents have much to lose and little to gain by war. Such a body is not made unwisely or unjustly warlike by base motives any more than by professional zeal. At the worst it may be carried away by moral sympathy or indignation, in certain crises, beyond that to which its military force is equal: the very thing which we have lately seen in the Servian Parliament. But in the long run, in every industrious nation, and especially when international commerce is widely extended, a popular representative assembly may be more safely trusted to uphold peace than any series of secret Cabinets. The Asiatic wars undertaken by the successive ministries of Queen Victoria—not one with the approval either of Parliament or of the East India Company—make up a long list. Also there have been "hostilities," not called wars, in South America and Africa, besides the Cafir wars, and more recently those of Abyssinia and Ashantee. It is not here implied that no sanction could have been got from Parliament for some of the worst of these wars; so much depends on the *stage* of events. Through the power of despatching war-fleets secretly, and by the entanglements caused when we send consuls into barbarous countries which do not understand our international morality, the errors of a ministry are apt to leave very little room for Parliamentary wisdom. No Parliament can be trusted to arrest and reverse ministerial proceedings when this will involve the disagreeable confession to foreigners that our Executive has been seriously in the wrong—hasty, rash, and finally unjust.

To have at command a movable army, or a still more movable naval force, is in itself a great power, a great influencer of events—is, in fact, a priming and loading of diplomacy without firing a shot. When the Crimean war was impending, the Prince of

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Servia offered to the Sultan seventy thousand men to aid him against Russia. Thereupon the Austrian Emperor placed ninety thousand men on the frontier, silently threatening invasion, and thus forced Servia to keep the men at home for her own defence. Francis Joseph did not declare war, nor make war; yet he acted very effectually the part of an ally in reserve for Russia, and actually neutralized the Servian force. The powerful English fleet, in like manner, without any act of ostensible hostility, plays a hostile or a friendly part, according as its movements may be interpreted. Lord Palmerston called it a "moral" support to diplomacy; and, when asked why he had not protested against the Austrians destroying the Republic of Cracow which the Treaty of Vienna had established, replied, that because a ship of war could not sail up to Cracow, therefore he did not protest. Foreigners interpret the movements of our fleets by the tone of our diplomacy. Thus if the fleet now approach the shores of Greece or Crete, it is understood to be a threat; but when it went to Besika Bay, the Turks understood it as a promise of help. So dark is this mystery, that Lord Derby gave one explanation, and soon after Lord Beaconsfield gave another, widely different and inconsistent. It was precisely by this double dealing that the Ministry of Lord Aberdeen entangled itself in the Crimean war, against its own intention or approval. It used to be accounted piracy and murder to enter on aggressive battle without a declaration of war; but that time is long past. We now are satisfied to call such a deed "hostilities." In Asia, to bombard a city or march into a territory all of a sudden is not very rare; and ever since our attack on Copenhagen and battle of Navarino, no foreign coast feels itself safe from an English fleet, if our diplomatic intercourse is unfriendly in its tone and strong in its demands.

In Roman history the change of the Constitution for the worse is computed from the day that a general in Asia undertook a war without command or sanction from the Senate and people. Where conscription is practised, as it must be when war is normal, it falls with great severity on the mass of the people: hence in early Republican times a strong persistent struggle took place in Rome against the claims of the patrician Senate to declare war without leave of the popular assembly; and the struggle was crowned with entire success—so that to the last day of the Republic the constitutional right was unquestioned. Nevertheless when a general was far from home, with a large

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army under his command, he was strongly tempted to seek his own aggrandisement, and to give his troops booty by making a war: and success with impunity became a dangerous precedent to others. The same thing repeats itself in modern times. Of course a war of such magnitude as requires fresh forces from home cannot go on without the approval of the Home Executive; but the consent of our Parliament to any secondary war has not been thought of any paramount necessity, and what a zealous officer has done even without specific orders is almost uniformly sanctioned. In what proved to be a second Burmese war Lord Dalhousie sent Commodore Lambert to Rangoon with a small squadron of ships to demand payment of something less than a thousand pounds, said to have been overcharged on two British merchants. The commodore was distinctly forbidden to enter into hostilities, even if the payment were refused. Nevertheless, having taken up a *new* quarrel, he carried off a Burmese war vessel, the king's ship, by violence, and by a broadside blew down the battery which he had been warned would be under duty to fire on him if he tried to carry the ship past; after this, according to his own account, he committed much slaughter by firing on helpless people. He was reproved by Lord Dalhousie for this conduct; but he was continued in command. The war which he commenced was followed up. The territory of Pegu, one half of Burmah, was seized and kept by us; and Commodore Lambert received the blue ribbon of honour from her Majesty, Queen Victoria.

About four years later a second Chinese war arose, against which a severe censure was passed by Parliament. On the first manifestations of disapprobation, Lord Palmerston, then Premier, spoke with much diffidence, and did not seem to sanction the very abrupt proceedings of Sir John Bowring. The details need not here draw us off from the main point: which is this, that on second thoughts the Minister determined not to abandon a zealous subordinate, and instead of yielding to a vehement condemnation of the war by Parliament, inflicted on Parliament itself, what Lord John Russell called, a "penal dissolution." To influence the new elections, he allowed currency to be given to the statement that he was favourable to an extension of the suffrage. The mass of the voters knew nothing and cared nothing about foreign affairs (how should they?) and nibbled at his bait. Ministerial influence was successful in ejecting from Parliament several of the most signal disapprovers of the "*lorcha*

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war;" and the new House was too spiritless to pursue the subject. The Minister prudently kept silence, but persevered in the war. The third Chinese war was similarly made by officers on the spot. Pekin itself was taken, and the Emperor's palace plundered; and scarcely had victory been won, when Lord Elgin carried the British fleet into the harbour of Jeddo, committing a high-handed act, which might have plunged us into a new war with Japan. But the Japanese took counsel with prudence, did not accept it as war, and under necessity submitted to make with us a commercial treaty. In none of these matters was Parliament consulted: in one of them Parliament was punished and degraded. Moreover, the submissiveness of Japan was shortly afterwards rewarded by the bombardment of a fortified place under some conviction of an English commander that this was his duty. No such act is ever punished, though war have not been declared.

When such are the recent precedents of English conduct, it surely is high time to look into this question of the war-power. Lord Palmerston, a Minister who loved a short and sharp war, and better still loved diplomatic success obtained by a mere *demonstration* of war, was succeeded by an eminently pacific Minister, Mr Gladstone. His opponents charge him with tameness, his friends praise him for his anxious justice, the only way of peace; yet somehow he did not prevent the Ashantee war, in which, had it been debated in Parliament, it could hardly have been maintained, in the eye of the day, that we were morally in the right. Moreover, although he undertook the ministry with a voluntary pledge to economy and lessened armaments, scarcely had he begun to lessen them than he again increased them, for the wonderful reason that a great war had broken out between France and Germany—who surely were so much the less at leisure to attack us. But that was not all. Further, by his power as Minister, he made a new *dynastic treaty* for the defence of the soil of Belgium from encroachment by either combatant; a treaty which would almost certainly have involved us in war with France if Louis Napoleon had gained the easy triumph which he expected. Thus, there is something wrong in our institutions, which makes it difficult or impossible for our most pacific ministers, who most wish to be constitutional, to yield to Parliament its due control over foreign affairs, over war, and over that commonest cause of war—*treaties*.

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The historian Gibbon remarks, that Livy tries to persuade us that the Romans conquered the world in self-defence: in the same spirit some of our historians represent our Indian wars and conquests as purely defensive and inevitable. When the English Company had become a political power, wars may have been inevitable while the native powers hoped to expel us. But after they learned their inferiority to us single-handed, and their inability to combine, it is certain that, had we desired peace, we might have had it—for fifty years past. The East India Company always did desire peace, but it was helpless against the ministers of the Crown, who, through the Board of Control and the Secret Committee, plunged it into war. Because the wars were called Indian, the ministries felt themselves independent of Parliament, and pre-eminently as to the making of treaties. But to close a war by imposing a treaty which the vanquished party cannot but regard as unjust and oppressive, does but ensure a new war. This is just the way in which the Romans of old made their endless series of wars; and in their track, it seems, we run. If a treaty has been broken, we think this to make a new war legitimate. We do not even inquire whether we have ourselves broken treaty, much less do we reopen the question whether the treaty, imposed by force, was inequitable. Moreover, when an Indian prince insists that he has *not* broken treaty, we do not allow a court of law to decide between us, as might the Court of Queen's Bench in a quarrel between the Crown and an English duke; but our ministry makes itself the interpreter of the treaty, the judge, and the avenger. If appeal be made to Parliament, the appellant finds the benches of neutral members empty, and that he is confronted there just by the very men against whom he appeals.

Such phenomena cannot conduce to the permanence of our Asiatic empire. They sow the seeds and mature the growth of inveterate hatred, which will increase as the natives increase in manliness, in patriotism, and in the knowledge of English freedom. The fruit of national hatred may not, probably will not, ripen yet; nevertheless, it entails a disastrous struggle to the next generation. What Austrian rule was to the Italians, such may the English rule become to the Indians; but by reason of the vast distance, and the immense disparity of our numbers, our case would be far more hopeless when the crisis came. We often profess to desire that European nations should disarm; yet we dare not to set them the example. We hold India now only by

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conquest, visibly by foreign force, not as did the East India Company, whose tenure was legitimated by the Great Mogul. Such is the result wrought out by a full century, during which administrations virtually irresponsible have wielded the war-power. And now, to our farther confusion and distress, in a great European crisis we discover that though the nation morally abhors assisting the Turks, yet it has long had to fear that the English Mediterranean fleet may be used for this purpose. The Parliament either does not represent the nation, or is resolved to go blindly with the ministry at all hazards.

This position of a nation eminently constitutional is wonderful, very discreditable, and justly alarming. It may well make us consider whether, in the immense preoccupation of Parliament, it has not mischievously yielded up to successive ministries the making of treaties, and power over war and peace. According to law, soldiers are bound only to obey the *lawful* commands of their officers. In practice the soldiers are taught that they are to obey *all* commands, without criticising their lawfulness or unlawfulness. Thus, when it is notorious that no war has been declared against an Asiatic prince, soldiers and sailors are ordered to commit assaults, which according to English law are piracy, murder, and arson. Even now, the sole causes of impunity lie in the facts that witnesses are not forthcoming to testify of outrage to our law-courts, and that the Crown will not prosecute. Is this a state of things to which foreigners can be blind? Can it be justified to our consciences, even if for constitutional law and for central control of affairs some of us care little?

For an Imperial power a routine is assuredly calamitous which permits its officers at the end of the earth to make wars for it at their own discretion. In general, the very man who is irritated by the refusal of a foreign power to see things as he sees them becomes the judge who decides on hostilities. But if he be ever so calm, ever so clear-judging on the immediate case before him, the expediency of avenging the wrong or the affront by acts of war has to be determined by the circumstances of the whole empire, and never can be fitly decided by one who is placed locally in command. Calamitous alike it is, that a great sentence which entails extensive slaughter and ruin, should be carried out, without a distinct and public avowal of its moral ground; which often happens in the obscure wars made against less advanced nations by an Imperial power. Without public

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debate it is often hard to learn why war is made even in Europe. In the Syrian war, and in the naval expedition of 1847, which captured the fleet of the Portuguese Whigs, we had to guess *why* these deeds were done; and very few Englishmen knew. Even a just and beneficial war may leave a very evil precedent, if its ground be not sharply defined and publicly avowed; a thing which every English ministry seems sedulously to avoid. A Prime Minister now deceased was credibly reported to say, that, if possible, we ought to avoid giving reasons for our actions; for it might afterwards prove inconvenient. This remark may well be extended to the movements of a fleet. The Minister intends to act on some one's fears or hopes. If he publicly avow what he is aiming at, he opens himself to complaint, to censure; he becomes responsible; but while he can avoid defining his object, it is hard to call him to account. To hold a loaded pistol to a man's head while we try to induce him to sign a bond, or indeed to do or not to do anything, is unendurable in private life; why should it be permitted towards a nation with whom we are in amity? On the other side, if a ministry may not take upon itself by its own will to involve us in a war, perhaps unjust, perhaps dangerous,—why should it be permitted so to use the English fleet as to persuade a foreign power that that fleet will shortly give it warlike aid? Such conduct either forces us on unjustly, or makes us appear perfidious when we retract.

No great nation has anything to gain by secrecy in time of peace. If unhappily it be at war, or preparing for war, many things must be concealed, if possible; especially by a weaker power. Strong powers are seldom objects of unjust aggression. Any wrongs inflicted on them are generally inflicted without knowledge that they are wrongs; nay, in a conviction that the deeds so accounted are rightful: hence the case is one, in which the stronger we are (we, who, it may be, think ourselves oppressed), the more likely we are to get a just verdict from a neutral tribunal: moreover, even an adverse decision which we think unjust may be honourably acquiesced in; indeed its evil can never be so great as a war would have been. So dangerously and cruelly perverse is an important section of our politicians and of their public press, that when a verdict was given against this nation in the affair of the *Alabama*, they raved against Mr Gladstone's Government for accepting the decision quietly, and treated him as accepting public dishonour. Can educated men

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not learn that nothing is so dishonourable as injustice, and nothing so ruinous? Are they blind to the fact, that if a tribunal to which we have submitted ourselves as impartial, decides against us, it is not only honourable to acquiesce, but is a positive and clear duty? Else quarrels become as interminable as Arab blood-feuds. The mass of the British people, high and low, wish to be just. They feel sincerely, if not always profoundly, that no rule can be permanent which is *not* just; yet, wonderful to add, they seem not to understand, that unless certain *forms* be made sacred, justice will no more be obtained in the affairs of nations than in petty private quarrels. If a pickpocket be caught in the act, if a ruffian be arrested in a deed of outrage, he is not punished without the intervention of a court before which he may defend himself. He is asked for his defence, as well as distinctly informed of the crime alleged. No sacred tribunal, bound to decide for the just without reference to the convenience of ministers, is ever dreamed of in the matter of war, especially if the object of attack be an Asiatic prince.

There is no danger that any European power will volunteer to attack England while we behave in a spirit which many proud men will scorn as Quaker-like tameness. All know what force we can put out, if violently driven into war against our will: to that they look, not to our actually existing armament. New armaments take up all the most recent discoveries and inventions, and are more formidable than old ones. This was seen in the American civil war. It is now seen in the astonishingly effective weapons of the Turks, and in the torpedoes of the Russians. A nation which disarms in peace is so much the stronger in war. Nothing is so weakening as to use up in time of peace the resources which ought to be reserved. If foreign nations knew for certain that our armed vessels *could* not be used against them until after a debate in Parliament and a declaration of war, they would understand that our armaments are a part of the necessary police of the seas, and as friendly as our home police to the citizens. No odium would come upon us, even if our force seemed superfluously large, but rather thanks that we took on ourselves a disproportionate burden for a common good. But while ministers have authority of command so little restricted, and soldiers and sailors are held exempt from responsibility in committing slaughter and ravage without any public tribunal which has heard a cause argued and pronounced a *sacred verdict*, our vast power cannot be discerned and acknowledged as an

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instrument of justice,—a legitimate police; nay, because it becomes an instrument of personal and private intrigue, it will be accused, as now, of embroiling others in war.

If it be asked, what is the remedy? one may have to admit that there is no remedy, if we are to be governed by routine and by precedent which refuses to look back longer than a century; if also we are not to insist on *moral right*, but are to acquiesce in the monstrous doctrine that what is for the moment inconvenient to the pretences and schemes of routine politicians may be scouted as unpractical. When an evil is undeniable, serious, unjust in principle, pernicious on a great scale, a remedy must exist. Where there is a will, there is a way; nay, many ways. If the remedy here suggested be not sufficient, or be not the best, it is for others who discern the disease to suggest a better cure. With this preliminary protest, the present writer does not shrink to point at the measures which most commend themselves to him.

First, the weapon by which our old Parliaments fought against an irresponsible King—namely, Declaratory Law—should again be unsheathed against an irresponsible ministry. Parliament ought to rehearse the fact of English law, that acts of war, committed by the Queen's servants before a declaration of war is legitimately published, are mere piracy, and expose the actors to punishment before our civil tribunals: that fighting in self-defence is of course as justifiable in soldiers and sailors as in civilians, but not more so; and equally entails on the fighter the necessity of justifying himself: that soldiers are not under duty to obey *unlawful* commands; and that all printed documents in barracks which suppress the epithet *lawful*, and describe the soldier's duty to be that of obeying *all* commands, are a fraud and an offence deserving severe punishment. Further, that no treaty which contingently may involve this nation in war is valid until it has been solemnly ratified in Parliament. Moreover, as regards treaties made between the East India Company and Indian princes, a Supreme Court of independent judges, similar to the Admiralty Courts, shall authoritatively interpret them when appealed to; and the Government shall not use force against any prince in following up its own interpretation of a treaty, without verdict of the court. This one enactment, honestly and earnestly carried out, would give an immense moral impetus to international processes of justice, and be a beginning of vast benefit. Nay, it would gain for us belief, if we farther proceeded solemnly and indignantly to denounce the slander that "*British* interest" is

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the aim of our international action; and to protest that, on the contrary, we claim a seat in the Council of Europe to uphold *European* interests and universal *justice*, which alone is the permanent interest of mankind, or of any great nation. Throwing aside with disdain Talleyrand's maxim for a statesman, "Point d'enthousiasme," we shall soon find the imagined impossibility of a just foreign action, and the impossibility of making war a mere police of nations, to be the fiction of weakness; and in exterminating SECRET DIPLOMACY we shall reduce the need of Parliamentary activity to its minimum. In the United States *every member* of the *Upper* House has a right to enter the Foreign Office and read the private despatches a fortnight after they are sent or received. Hereby their contents and the drift of ministerial action become known to politicians *on both sides*. Evidently immense good hence results: no one has yet pointed out any evil. The Upper House by a vote may command the publishing of any despatch: hence the ministers take good care to act as national servants, responsible to the whole nation, not to a party. If the English House of Peers is unequal to the burden of supporting such a function, one may ask, if it is to exist at all, ought it not to be made competent for it?

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THE BARBARISMS OF CIVILIZATION.

From "The Contemporary Review," June 1879.

GUIZOT attempted to fix the meaning of the word Civilization by an elaborate induction, and concluded that its essential meaning is Progress. But to many minds progress will appear harder to define than civilization; such a definition is certainly *obscurum per obscurius*. Far more obvious it is to look to the history of the word Civilization. It is a modern development out of the verb Civilize, which, of course, meant nothing but to *make civil*. Thus we are thrown back on to the adjective Civil, Latin *Civilis*. If we can rightly expound this, we can hardly fail to interpret Civilize aright.

Notoriously a *Civilis animus* is the opposite of a *Regius animus*, which to the Latins suggested the claim of lordship and privilege, nay, a spirit haughty and high-handed. On the contrary, he who was *Civilis* had the qualities of a *Civis*, the virtues of a citizen: especially, he treated other men as his equals, his peers, and claimed no superiority; hence the popular English idea of Civility. Not only so, but he was a good citizen in a larger sense; ready to sustain the public welfare by wisdom and energy at the expense of personal sacrifices. Surely we need not hesitate to accept as a true interpretation, that to be "civilized" means to become thus *fit for citizenship*. If we try to step further back, and ask, What was the primitive idea of the word Civis with the Romans? our ignorance of early Latin embarrasses us. Yet in other cases also (whatever be the cause) the Welsh or the Irish language gives indirect suggestion. Here we find that the Welsh Cyf (sounded Kiv) is comparable to Greek συν and Latin Con, Cum. Words beginning with Cyf occupy twenty columns of Richard's Welsh Dictionary. Cyfalle means *conjux*, husband or wife, a partner, a fit match. Cyfail means a friend, a comrade, *alter idem*. This reminds us that those who were full Spartan citizens were called οἱ ὁμοῖοι, the equals, *the peers*. By such analogies the present writer is persuaded that the idea of CIVES among the Sabines, from whom it probably

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came into Latin, was Partners and Equals in the community. Out of this the sense of the adjective Civilis flows naturally, and comprises the notions of "fraternal, just, and courteous."

Now, if the attainment of such qualities be (as the writer believes) Civilization, it is only in *spurious* civilization that barbarity can inhere: and in this sense must the motto at the head of this article be interpreted. It is not here denied that there has been Progress (in the high and true sense) accompanying the national changes both in England and in all Europe; indeed, when there is occasion for it (as in a certain controversy there is), to recount the marks of such progress is easy enough. Yet, wherever a national history lies open to us, it is a familiar fact that its earlier barbarism had its own virtues as well as its vices, and that in its later stage new vices came in, or even the old ones under new pretences; so that at last, in spite of the progress of which it might justly boast, the *Civitas* broke in pieces mainly through the failure of the *Civilis animus*. From no other cause does the vain talk of Socialism now gain plausibility and influence, than from a perception, an inward sense, that such is our present danger. If we will not look honestly into the face of facts, a fundamental discontent, not the less formidable because its claims are vague, may gain great and dangerous prevalence.

But in speaking of our barbarisms the argument must be confined to this United Kingdom, and nearly to matters which public opinion either does not censure or has even approved by law and established as systematic. Unless we thus limited ourselves it might seem doubtful where we should stop and whence we could hope for a remedy. Unhappily the range of facts to be considered is far too ample, even when limited as above. From what point shall we begin on a wide and varied topic? Perhaps from our *neglects*.

While population is scant over an area of which few know the limits, lawless freedom can do no harm against the force of Nature. If a stream be polluted by wanderers, the pollution is quickly carried away, and the evil is transitory. If trees be lavishly cut for firewood, the forest does not miss them. If their trunks impede a water-way, a new channel is presently opened. If large game be killed and much of the carcase left to putrefy, the poisoned air does not reach far. Man is not yet powerful enough to improve the country; therefore neither to mar nor ruin it. But when population increases, new dangers arise—

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not those of which alone Malthus and the spurious followers of Malthus talk, but—danger lest *one* spoil the air, the water, and the land for *another;* danger also lest one seize for himself more land than he can use, to the damage of many others. Even very rude tribes soon discern these dangers; our earliest common law denounced the practices which involved them; but local mischiefs can only be averted or redressed by locally vigilant authority; central power has plenty besides to do. Among ourselves there has been, and there is, manifold and barbarous neglect.

It is not at all rare to find the side of a mountain or high hill thickly timbered as you traverse a road, until of a sudden the timber fails, and you see only thin rocky soil, with tufts of gorse and grass. On examining you discover the ground to be just as poor even where trees and bushes grow thick; but a wall encloses them. The difference is only that within the wall the land is private property, outside it is common. The law, as administered by the rich, has not defended the woods which belonged to the *public*, but has permitted each greedy individual to despoil them. In consequence the natural wood long ago disappeared, except where defended as private property. Continental countries have defenders of the public forests. We might have had defenders, appointed not by any central power, but by each parish, if our originally well-planned local institutions had been cherished and developed. Every wardmote, holden in the common interests of the people, might have been a public school and fountain of local sentiment. With little or no expense the people themselves would have restrained the offences of their own order: but there is now little to preserve; commons have been swept away, and public footpaths too, under cover of new laws, the rich rivalling and surpassing by far the encroachments of the poor.

Under English notions of freedom the same mischief has for a long time been going on in English colonies, or colonies so called —as, for instance, the Mauritius. This island was captured by the British in 1810. Since its sugar has been admitted into England on equality with West Indian sugar, the blind eagerness of trade has done its worst to deform a beautiful spot. Nature is still too powerful for man; yet an old resident thus writes: "Fruit, once abundant, is now scarce and high-priced. The beautiful woods, rich in a tangle of gay flowering trees and gigantic *lianes*, are now to be seen only in a few of the more

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rocky places. Naked stumps and rows of stiff cane replace them. Even the prettily-wooded environs of the country-houses are too often sacrificed for the universal cane. There is not a Creole in the island but will shake his head mournfully, and tell you that his *petit pays* is but a shadow of its former beautiful self." Far worse than this—that is, worse than the disappearance of rice, arrowroot, manioc, yams, potatoes, cotton, indigo, most of the fruit and much of the beauty of the island —is the terrible fact, that eagerness to raise sugar led to a large importation of "coolies" (ignorant, helpless men, who often came under a misunderstanding of the contract which virtually enslaved them); and no provision being made for cleanliness in a tropical climate, this island, formerly noted for salubrity, is permanently stricken with malarious fever. A lagoon many miles in extent, on one side of the principal town, is now described as a bare expanse of fetid mud, when the tide recedes.

The same may be said of many English sea-side resorts. Offensive details might easily be here put together. But to return to the destruction of timber. A Continental statesman of some eminence recently uttered the assertion: "The universal curse of old civilization is the wide destruction of the natural forests." He had Italy especially in view. But in Canada and the United States already the mischief is felt. One may presume that the steeper the hills the more rapid is the devastation. Often the rainfall is lessened. Also the forest which acted as a sponge no longer holds up the water, which runs off in flood instead of sustaining full streams all through the year. It is well if these floods do not carry off the soil from the surface, leaving bare rock, upon which no human repentance can renew the original timber. The modern English philosophy, too often preached by Radicals and practised by Conservatives, is: "Let the State give to every enterprising individual free leave to use up the natural products of the soil, vegetable or mineral, leaving prosperity and the future to shift for themselves."

Poisoning of the natural streams is a still worse offence perpetrated by the cupidity of trade. This was severely forbidden by our common law, yet constantly committed, simply because we have no official public prosecutors. The same cause makes laws against polluting the air by smoke ineffective. Neighbours may be annoyed, yet do not like the odium of prosecuting; in manufacturing towns all the rich have interest in impunity, and

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shelter one another; much less is an individual likely to take the expense and risk of lawsuits, especially against an opulent company. Hence, long before the invention of gas polluted the Thames, foul water in plenty gushed into it against common law from the Fleet Ditch. But the main stream and upper water remained comparatively pure; for salmon came up with the tide beyond Richmond in the memory of men not yet decrepit. After the gas companies had made the water unfit for use no scruple was felt against increasing the pollution. No powerful corporation bestirred itself to prosecute, and neglect might seem already to have inflicted on the noble river the worst which it could suffer.

But theory, pedantry, and pretentious sanitation proved still more efficacious for evil than any mere neglect. A number of active-minded men, physicians, surgeons, and physicists, were shocked at the high death-rate of towns and their evident insalubrity. In order to improve the atmosphere they invented the bright idea of commanding the pollution of rivers. In the years 1844-48 it was in vain that any unpretending citizen argued with the eager sanitarians who assumed the direction of Parliament against the odious offence of poisoning the natural streams. In vain did one remind them that this was the specific iniquity, the detestable crime peculiarly forbidden (according to Greek belief) by "that voice of many peoples which is truly a voice of God." They derided opposition as the outcry of ignorant conservatism, and cajoled Parliament (1848) into making that pollution of rivers to be compulsory, which from time immemorial had been penal. Before many years were past Parliament, in consequence, found itself half-poisoned by the pestiferous stench of the Thames. Then counter-legislation began. But the mischief had been made universal by fatuous law of which the sanitarian philosophers had been the originators, the Parliament the tool, and the helpless nation the victims. After this very grave blunder, to purify the polluted streams and get rid of noxious matters was easier to command than to effect. The evil which ought to have been removed by calling for the execution of the good old common law had been multiplied a hundredfold by the energy of would-be scientific statute law; it still distresses most and crushes many.

London, a very wealthy metropolis, has been relieved at the expense of many millions sterling; but it is only a relief, not a cure, which her vast constructions have achieved. The newer

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science has gone back to the wisdom of Moses, and teaches that earth is the rightful purifier of refuse that else will be dangerous; that no accumulation of material, noxious out of place, ought to be allowed to putrefy by long time; that it is a very evil thing to rob the head streams of rivers for the convenience of huge towns, first stinting the rivers of their natural supply, next pouring back into them the waters detestably polluted, to the misery of villagers. The marvel is, how any men pretending to science can have devised such plans. That they succeeded in winning over Parliament is, of course, to be accounted for by the over-occupation of that august body, and by the wretched misarrangement which permits laws (of perhaps vital importance) to be passed in thin and wearied Houses after midnight. A solemn condemnation of all this false sanitation is recorded in the Social Science Transactions of 1868—that is, in the able Address of Dr Henry W. Rumsey on "Health." Most reluctantly, no doubt, does he sum up against the deplorable errors of his predecessors in science. A short extract from his Address may here be appropriate (p. 93):—

"So eager were most of the earlier sanitarians to get rid, at any cost, of human refuse that, without due consideration of the possible results of the measures adopted on the future water-supply of the people, they advised the pouring of abominations of all kinds into the nearest water-courses; having first rendered subsequent measures for the recovery of what was truly valuable in this (so-called) refuse almost impracticable by diluting it with floods of water, both that which had been artificially stored at enormous expense for town distribution and the natural rainfall.

"In vain did physiologists and scientific agriculturists protest, for various reasons, against this rash dilution and wrong disposal of organic matter. The skill and enterprise of our great civil engineers, supported by the energy of leading sanitary reformers, were triumphant. The effete products of manufactures and trades, the animal and vegetable *debris* of towns, mineral detritus, &c., were all to be got rid of by water-carriage. The result was, that *communities have had to encounter a more serious difficulty than at the very beginning of sanitary reform.* There were fish in the rivers, good for food; they all perished. There were human communities down the stream, suffering from *an increase* of sickness and mortality, and crying out for drinkable water. Well, they were advised to filter the river water, or to boil and then aërate it; or if all this were too troublesome and expensive, they might sink wells, or tunnel the nearest hills, for a *safer* supply. No substantial relief or help was afforded them."

Dr Rumsey goes on to quote figures which seem to confirm the

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belief emphatically preached by Dr Budd of Bristol, that water-courses, when defiled by the products of disease, are very efficient diffusers of baneful malaria. Without adopting any germ theory, any novel or contested opinion, the repugnance of common sense to sending in every direction that which tends to poison the air might seem a sufficient reason for condemning and rejecting water-carriage of such materials. But we are not yet at the bottom of our difficulty. In all our towns it is both the fashion and the compulsory law to have tightly-closed drains; open sewers are forbidden. Good! right! we at first say. But, alas! the gases which are formed inside the drains will blow them up if some vent be not allowed; therefore at fixed distances vent holes are periodically opened, whence foul blasts are liable to assail one or other of the luckless neighbouring houses. But now we are taken aback by a new development. It is asserted that the drains need more ventilation than had been supposed. Orders from central authority in London insist that the vents shall be placed at shorter distances; and so great is central power that, in the town where the present writer resides, members of the ruling commission have made the ominous remark, that we seem now to be forced back in the direction of open drains! With an unsound basis you cannot attain consistency and stability. Surely this is a condemnation of water-carriage, even if we had, ready-made, a double set of natural channels and a double supply of water.

In all this discussion it has been overlooked that, instead of going to the root of the mischief, artifice has been applied to sustain historical wrongs which we ought to outgrow and remove. Dr Rumsey justly insists on the essential want of ozone, and excess of carbonic acid, in the atmosphere of large towns. Large towns are in themselves a monstrous evil—an evil continually growing through wrongful laws or customs of land; and this system of drainage has, by affecting to induce salubrity, aided to blind the public and sustain the evil. A town of twenty thousand inhabitants is large enough for every good and desirable object. Even when this number is not exceeded careful regulation is needful to secure healthful air and water without unreasonable expense. One sentence suffices to express the cardinal condition which supersedes water-carriage of refuse, and ensures normal salubrity—viz., every block of houses should have side by side a proportionate space of land suitable to periodical and rapid crops, on which the whole refuse should be expended. It is not parks and gardens that we want in the middle of a town to serve merely

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as lungs, but rustic fields, to be manured and cropped at short intervals, under public and compulsory rules. To enact such rules prospectively concerning towns not yet built involves no intrinsic difficulty even in the United Kingdom, and might almost be called easy in our newer colonies—say, Australia and New Zealand especially. But a Parliament so overworked as ours can never look forward, and is driven on to work chiefly by public disasters, for which (it might seem) it waits, except when intriguers manage and master it by a cunning study of its forms and rules. Empty fields and huge densely-packed towns denote in past history the era of decay, especially when the towns have to be fed from abroad. No large population ought now to live on a narrow area. In the ruder ages, before cannon and bomb-shells were invented, swarms of people huddled thick together in order to gain protection by a city wall. Military necessity then overpowered all scruples concerning health. But in the modern stage of the military art, an enemy who commands the field is formidable to a town in proportion as its population is dense, which is so much the more exposed to the horrors of famine and of bombardment. We have no longer excuse for any towns with closely-packed inhabitants; much less was there ever valid reason for cities so large that the children by scores of myriads are unable to walk into the country. The old accounts of Nineveh and imperial Babylon represent those capitals as having within the fortifications wide areas of cultivated land, making them, not cities, but fortified provinces, with rural districts enclosed. If thirty-five years ago our sanitarians had held the doctrine to which their sad failure points us—which, indeed, Dr Rumsey maintains—that water-carriage of offensive matter is fundamentally wrong, their action would have been directed to control the growth of towns, and permit it only under severe conditions. But as things are now managed the land on the edge of every town is the property of an individual, and if built upon, its money value is multiplied manyfold. Therefore private cupidity, not the public welfare, prescribes when and where new houses shall be built, and how tightly the inhabitants shall be packed. To the poor this is a terrible calamity. The poor cannot select where they will live; they have to lodge where they can find shelter, not too distant from their work. The wild savage not only lives in pure air, but is fastidious in choosing the atmosphere in which he will sleep; but a poor family in a country which vaunts its civilization, too often, in spite of industrious virtue and immense

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efforts, sink down into misery, the health first of one, then another member breaking down under the insalubrity of a district. What avails it to talk of drains when the drainage from the higher grounds defiles houses that are lower, and perhaps a poisoned river adds its fatal exhalations? A family, packed into two, or say three, rooms can scarcely avoid contagion when a single member falls sick. Now also, the drains being out of sight, it is morally certain that defects will exist, or be caused by wear and tear, unseen. In one place evil liquids and gases will percolate; in another evil accumulations will putrefy. Instead of blending small portions of needful manure quickly with small portions of the earth that needs it, we secure in the drains a slow putrefaction, and a permanent source of pestilence; we relieve a town by imposing a grave vexation and danger on the whole neighbourhood where its drains have exit; we make the mouth of every tide-river a harbour and store-house of pollution; and after thus wasting an agricultural treasure, we send across the Atlantic ships for a very foul commerce in material destined to replace it. Is there here any lack of eloquent facts to rebuke our "barbarism"?

On a smaller scale we have like noxious deeds, not in dense populations, but in places essentially rural. These words do not allude to the hideous deforming of scenes naturally beautiful, say in Yorkshire, Lancashire, Derbyshire, or Wales, by the smoke of chimneys for manufactures or mining; pollution of the rivers is still pointed at. As isolated instances of a common fact, we may here state, that into the beautiful Ulleswater a fresh bubbling stream ran from Greenside, until in the mountain a mine was opened, which poured its refuse lead into the "beck," turning its colour to that of dirty milk. Hereby every wanderer gets warning not to drink. The peasants close by have become accustomed to get drinking water from other and smaller rills, and, if asked whether the loss of the beck is not an infliction, they reply: "Well, the good folk at the mines *give us work*." Thus, for a consideration, they become willing partners in the poisoning of the stream. But this is not all. The stream poisons the lake, at least where first it enters; no doubt much of the lead is quickly deposited in the deep bottom. But after copious rain, the lake overflows on the pastures. Some years back the writer knew a case, not likely to be isolated. A pony ate grass over which the water had flowed, and was killed by its poison. The company which worked the mines immediately paid the price of the poor

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animal, thus averting a lawsuit and a disgraceful exposure. But is this state of things not barbarous, and worse than barbarism? Again, at Aberystwith, where two streams meet, one of them is poisoned by refuse from a mine, but the colour of the water does not show it. The writer knows of two tourists, who, being thirsty with walking, tried to drink, and were foiled only by the steepness of the bank and want of a cup. They afterwards learned what danger they had escaped.

At the moment of writing, a notice turns up concerning the state of the Scotch rivers—viz., in the *Daily News* of May 5th. For drinking or for washing the water in many streams gives the people much anxiety. Creosote is used in sheep-washing. A tank of creosote was kept near to a small river of Kinross-shire named the Devon, in which the trout still retained a home. But the tank leaked, the stream became muddy with it, the trout sickened, died, and floated on the top; the neighbours dreaded to use the water. "Meanwhile," says the Editor of the *Daily News*, "the Tweed salmon are dying of the disease which has done so much mischief in the Eden; which, *as Science has probably caused it*, Science may be asked to cure." Is science in sheep-washing intended? or science of health? or science of national economy? It was quite notorious forty years ago that the refuse of the animal was the food of the vegetable, and ought to be saved for use, not wasted in poisoning the waters. How could well-informed men delude themselves into an approval of this course? Only one explanation occurs: *they despaired of returning to Nature.* They assumed that we must live by artifice, and they entitled artifice "*Science.*"

When once manufacturers have been accustomed to use a river as a drain it is necessarily hard upon them to forbid the practice; yet even here we have encouragement in returning to the only natural and right path. The greatest manufacturers of alum, perhaps in all the world, have their works in Manchester, and when forbidden to continue throwing their refuse into the adjoining stream, a tributary of the Mersey, were at first stunned by perplexity; but they called in the aid of science, in a right, not in the wrong way. They propounded to skilful chemists the problem how to dispose of their refuse, and before long (to use the phrase of one of the partners) they discovered that they had been throwing away gold. Modes were suggested of turning it to service, by which an actual gain was achieved, where they had expected heavy loss. The same gentleman attested that he

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had heard similar results to neighbours whose trade was of a different character from his.

It is evident that the avarice of trade needs many checks, both from political enactment and from moral teaching; yet neither check is duly applied. The wastefulness of military action is proverbial, yet the trader, who aims only at his own immediate enrichment, is as reckless of the future as the soldier, who plans only for victory. How painful is the record of successive destruction or extermination of animal races. If a huge creature like the elephant can only exist by occupying large areas of forest and plain which are needed for human habitation, no doubt the brute, however generous, must at length give place to the man. We do not know certainly how the elephant was exterminated from Northern Africa, but the eager demand for *ivory* under the Roman emperors is the probable cause. The entire race was driven out of existence for the pride or fantasy of rich men, whose money the hunters coveted. It is believed that in India also this noble animal, under English rule, is rapidly diminishing, and likely soon to vanish, though there exist jungles innumerable in which men cannot live and elephants might multiply. In Africa, south of the equator, the elephant is still found, but the pursuit of him for his tusks is incessant; chiefly to satisfy the craving of the civilized! * Much the same may be said of the American bison, who is sometimes slaughtered for his *tongue* alone, which is easier to carry off than his hide or his horns. In like manner the beavers have been hunted away, perhaps extirpated; not because their works are noxious to the streams, but simply because their furs fetch a steady price in our markets. The destruction of salmon and other fish by avaricious and reckless fishing has never been quite overlooked, and of late has been more seriously provided against by preventive legislation. The seals, walruses, and whales have not (we may presume) in any case wholly perished under the attacks of our pitiless hunters; but these innocent, kind-hearted animals —some of them very intelligent—have been largely driven away from the habitats most suited to their comfort; and probably the young ones perish through want of the fostering care of parents. To pass from the great to the little: it is reported that the

* An enterprising American, who bought up from President Lincoln's Government the carcases of all horses slain in battle, found that the shank-bone of a good horse is so dense as to furnish no bad substitute for ivory. Are such bones duly esteemed and economised?

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exquisitely beautiful humming birds are disappearing at an alarming rate, owing to a new fashion which decks ladies' bonnets or heads with their feathers.

Divines and moralists have very little busied themselves with inquiries into the duties of men to other animals, and the limits to man's right over the various animal races. Hitherto, if in the recklessness of trade any animal be extirpated—say a beaver or a species of seal—it is lamented, not because the animal had any right to live, but because posterity will be poorer for his destruction; just as, if we deplore the using up of our coal mines, which does but enrich one class of richer men, we deplore it not because the coal has a right to exist, but because the coming generations will have to go deeper and search further for their coal—perhaps may find it too dear to use. Yet is there not another side to this question? When the extreme case is put—"Shall man die, or shall animals die, that man may live?" there is no difference of judgment among men; but only in the exceptional case, only where wild game is essential for human food, is the absolute right of man over the life of gentle and harmless brutes universally conceded. A strong distinction is maintained by some between the wild animals which owe nothing whatever to mankind and the half-domesticated which men feed and protect from their natural enemies, so that in some sense we cause them to exist. Suppose it to be conceded that the fowls which we have defended and nourished may be claimed as lives over which we have discretionary control, surely with much less plausibility can we claim the like control over wild animals. The English law which pronounces those that we feed and protect to be private property, while it refuses all right of property in the wild animal, was based upon a sense of the sharp distinction. There is, apart from the moral question, an underlying economical one, in the fact that the grazier who rears cattle for the butcher's knife is never likely to exterminate the race: on the contrary, he seeks to multiply it, though by his artificial treatment he propagates a far weaker and more fragile breed. Still, he has demonstrably *some* right in his cattle, and a farmer in his fowls; but a hunter has absolutely none in the wild animals he pursues; unless might be right. To kill some, to mangle more, to cause numbers of young to perish, to drive whole flocks from their natural abodes, perhaps to extirpate entire species for no other reason but pecuniary gain, is apt to be an injury to the human race on the one hand, and on the other is hard to justify by any moral

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reasoning if a court be held where an advocate is heard on the side of the brute. This is a topic which will be more fully discussed in the near future.

In considering our national state, the character of our laws, and the temper of our immediate rulers, it is often hard to judge what is the ideal at which legislators aim. Perhaps we must conclude that there are half-a-dozen different ideals alternately in the ascendant. Very careless we have been, and are, as to the extirpation of wild animals and of savage tribes; but how about the British and Irish races? Do we wish them to multiply or to dwindle, or do we think their present number precisely the right thing? Early in this century if a nobleman chose to unpeople his estate few voices were raised to censure it, and those were not heard in Parliament. Nearly the same state of things still exists. Where a faint defence was regarded as necessary by some professed economist, it was thought a good argument to insist that the population was still in existence, indeed was probably better housed than before, being now in some fishing town or some great metropolis. If population multiply in some rural area, the economists call it a *warren*, comparing men to the rabbits, whom farmers style "vermin;" but if they multiply in the slums of a town, where they are sure to grow up largely deficient in vital force, and perhaps with inferior moral character, this is approved of, as a sufficient compensation for driving them out from the fields and mountains where they were vigorous parents of a vigorous posterity. Barbarians know how to value a tall, muscular, and active population: have we entirely lost pride in the *rusticorum mascula militum proles*, whose large extermination in imperial Italy the poet Horace deplored? So it might seem; for the condition imposed on the English baron of maintaining soldiers for the king's service has been for ages set at nought with impunity. Œdipus in Sophocles avows that neither towers or ships are of avail if they are not well manned. Do we now really think that industrious slaves, paying rich tribute to the exchequer, sustain a nation in strength and honour without stalwart peasants? Or, when other nations compute their population at eighty millions or forty millions *ever increasing*, that we can long continue in rival equality if our millions cease to multiply? During the advance of national greatness the increase of population is coveted and applauded; barrenness of women is esteemed a curse of God; blessing and joy attend every increase of families. When misanthropy and avarice

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deprecate increase, Nature is dethroned: the Nation must decay if this be acquiesced in, and we may generally infer that its institutions are unjust. Certainly every nation has an intrinsic right to increase its numbers; a right earlier than, and more sacred than, any right which an individual can have to the luxury of romantic solitudes. To forbid such increase is a deeper barbarism than that of savages. Institutions and laws, if they hinder it, need to be severely reformed. As the elephant or the wild Indian must give way to the pressure of human population, so must the rich proprietor; and if we value the English race as not inferior to any human family and superior to most, it is inevitable for us to desire not to be outnumbered by others, on whom perhaps we look down. The talk about superfluous population is about as gratuitous as that about the lost ten tribes. The ten tribes are no more lost than the two tribes; Ephraim and Judah have for near two millenniums been inextricably mingled; no one tribe is lost more than another unless you go back to Simeon or Dan. So too, no one has ever yet shown that we have any superfluity of population. We have great superfluity of vice, great superfluity of bad law: remove evil habits and evil institutions, and it will presently appear that never was it easier for a people to feed and support itself. Too many political economists (unhappily) have to learn that vice is of all things most wasteful. Only a *vicious* population ought to be regarded as superfluous. Institutions which forbid industrious men to raise food out of the soil are something worse than superfluous. At the close of the American civil war, when freedom had been proclaimed to the slaves, those red men who live in the Indian territory—who, in imitation of the Southerners, had introduced a system of slavery—concluded that they must now reverse their course. *They*, too, proclaimed freedom to their slaves. But they did not scold at them as vermin, or as a superfluous population; no, but they re-divided their own lands, and gave to the freed men portions equal to their own. Which doctrine or practice is more barbarous—that of English land-tenure and population-fearing economists, or that of these American children of Nature?

The physicians and physiologists who had so cleverly persuaded Parliament in 1848 to make the pollution of rivers compulsory were so elated with their success that very soon their ambition assumed new audacity. Sir Robert Peel died in 1850 by a fall from his horse; but they had already beset

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him with the project of making vaccination compulsory: a thing which he protested the English public would never endure. He did not know how cleverly a devoted clique would manage the midnight hours of a wearied Parliament, nor what energy a united faculty could put forth when it had attained permanent office for ambitious schemers. The analogy was so beautiful between defiling the natural streams with a view to the public health and defiling the blood in the arteries with a view to the health of the individual, that those who had been bitten and infected with rabies for the one scheme took naturally and kindly to the other. No public debate took place on the topic, even among medical men; much less was any notoriety given to the debates in Parliament, if there were any, concerning compulsory vaccination. Apparently the thing was managed in the mode now esteemed orthodox. Various esteemed medical men talked over the editors of London "Dailies:" it would seem that a "conspiracy of silence" was achieved in that early day; and, to use a very modern phrase, the whole thing "was sprung upon us" unawares, in 1853, just when our heads were getting full of Menchikoff and the Sultan, of Hungary and Austria, and much beside of foreign affairs. The Crimean War came, and was fought out, and departed, without one man in a hundred, out of those who were too old to have infant children, being aware of any change concerning vaccination. But in the medical profession itself there had always been avowed and pertinacious enemies of the practice. A small section of the nation knew and abhorred the law of compulsion. Out of this small but resolute school came stern remonstrances and solemn warning to the medical officials that vaccination, especially from arm to arm, was apt to convey any or every blood disease. But the officials spurned them as mere "quacks." Within twenty years, however, the confessions of able pro-vaccinators were overpowering. Mr Simon, medical officer to the Privy Council, could not deny the fact, but alleged that the operator *must have* dipped his lancet too deep, and taken a drop of blood. He did not, and does not, guarantee any one against a like misadventure in the future. The pro-vaccinators have not learned to blush at their persistent and rude denial of what is now a confessed danger. Sir Thomas Watson, an aged and leading physician, only last year (June No. of the *Nineteenth Century*) calls the chance of foul disease from the vaccination now orthodox "a ghastly risk," and praises the father who will go to prison rather than permit it. Yet Sir Thomas

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Watson so hugs vaccination that he advocates the infusion of disease into calves in order to get cow-pox *at first hand.*

This is no place for nice medical argument, if the writer had tenfold knowledge: but many broad facts glare upon every one who has open eyes. In history, in theology, and equally in medicine, we have often to remember that there are some assertions, some doctrines, so paradoxical, so opposed to common sense, that when it is asked, what sort of evidence would avail to prove them? we are driven to reply, that we cannot imagine any: they are intrinsically incredible. Such to us is the doctrine that the Supreme God became a bull and a swan, and much beside which might be named. It generally happens that precisely those doctrines which thus startle us as incredible are eminently devoid of any proof that deserves regard. Just so is it here. *A priori*, —that is, from all the light of received physiology and ordinary common information,—we believe that the stronger is vitality, the sturdier is the resistance to contagion; and the purer the blood, the stronger is vitality. That corruption infused into the blood can secure us from contagion is certainly most unplausible, —scarcely credible,—a doctrine not to be received without overwhelming proof. Yet no proof from science is even pretended, but only a proof from perfectly ridiculous statistics,—ridiculous, because ill imagined from the beginning, and variously self-refuting. As an eminent Austrian physician has lately argued:—If tables were now drawn up to show how many of the vaccinated, and how many of the unvaccinated, die of *diphtheria*, the figures, if applied with the most perfect skill and fairness imaginable, must end in making out either the one side or other to have more deaths: thus (if the logic used concerning small-pox be admitted) it will be made out that either vaccination or non-vaccination tends to secure from diphtheria. Of course that would be nonsense; and why not equal nonsense to infer from statistics that vaccination saves from small-pox? Meanwhile, the awful fact on a great scale confronts us, that small-pox has become more and more prevalent, more and more fatal, since vaccination has been made compulsory. Now at last the cause comes out without a blush of shame from our orthodox school. The Government vaccinators have for many years obtained a large part of what they called *lymph* (a fraudulent name—*pus*, or matter, is the only right word) by inoculating calves or bullocks with *small-pox*. The result in the animals they are pleased to call *cow-pox*, and when the poisonous matter is transferred back to human infants they

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assume that it will *not* produce small-pox ! ! But while this doctrine is orthodox in London, the Local Government Board in Dublin allows no such dealing; for on February 10th last it warned all vaccinators that such proceeding spreads small-pox by inoculation, and is a crime against the law. Another broad fact is, the widespread suffering, disease, and death which vaccination causes in infants. A third is, the utter failure of vaccination to prevent small-pox, and the zeal of doctors for re-vaccination. Numbers of the re-vaccinated have caught small-pox within *a year* or *a month* after. The medical men who pretend (to the vulgar and to the ignorant) that vaccination is "a real and easy preventive" of small-pox often reply, when confronted with the fact of failure, either that the vaccination *cannot have been* (!) well performed; others pretend (without a particle of proof) that the force of vaccination lasts for seven years only; a figment which, if true, would not be to the purpose, would not relieve the facts. Finally (what to the present writer is by itself decisive), unless the *causes* of small-pox be removed (generally some impurity in the air or in the food), those causes will work mischief somehow. To throw an eruptive disease back into the system is proverbially dangerous. If vaccination had this tendency, so much the more dangerous must it be; for it cannot remove the causes of small-pox. Moreover, what right has any physician to neglect the cures of small-pox, by which herbalists, hydropaths, and Turkish bath-keepers find it a most tractable disease? Some barbarians bastinado an unfortunate patient when he is seized by ague: is it less barbarous to infuse corruption into the blood of a healthy man, as precaution against a disease which may not occur at all? The last sentence touches on a great and critical fact. No doctor, no legislator has any right to assault the body of a *healthy* child or man under pretence of providing for the public health. A medical man, whatever his celebrity, proclaims his own folly when he entitles a healthy child a fountain of disease. These doctors, when they consent to stick by their own logic, avow, that as fast as a man or child throws off the effects of cow-pox, he becomes liable to small-pox, and *therefore* ought to be cow-poxed again. (It is not really cow-pox, but it is certainly disease.) Thus they confess that *they dread perfect health:* (must we add, of course a healthy person pays them no fees?) they want to keep us in permanent cow-pox: yes, and they know not what more beside they may infuse into the blood. But, what is here urged mainly, a *legislator* usurps, if he *forbid perfect health;* he might as

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well command vice. Legislators who do not despise the physician who weeps over healthy children as dangerous have less good sense than most barbarians.

Is the sum of our barbarisms as yet completed in this rapid sketch? By no means. The same medical clique, which has installed itself in power, and has got the ear of over-worked legislators, became more audacious still after the Prince Consort's death. They resumed an old plot, which had been all but "sprung upon" the nation under Lord Melbourne, but had been defeated by the Queen's accession. Lord Melbourne declared it impossible to ask the signature of a virgin Queen to such a law. Whether there was any real connection between the death of the Prince and the resuming of this plot is not certain; however, about a year after his death they did resume the scheme of providing safe harlots for profligate men. Once more we find the same fatuous logic, *which seeks for health through artificial impurity*, and with brazen front avows that marriage is inconvenient to many men, and chastity is unhealthful. The laws were made and carried stealthily, in thin Houses and at midnight; penal legislation was passed without public notice or discussion; the common rights of the female sex were ruthlessly sacrificed. and an iniquitous system chained on to the neck of extensive districts, with an ingenious cruelty to girls and poor women which may seem a mongrel between the Paris police and the Spanish Inquisition. The first step to civilization, according to the ancients, was to enact, to honour, to uphold marriage: of all steps back into barbarism none is more marked than that of maintaining State slaves as harlots. This foul and disgusting despotism must soon be swept away by public indignation, unless family life and youthful purity are to be undermined, and a secret police in plain clothes, responsible to a central functionary, is to trample us down permanently. Moral despair of virtue and a resolve to indulge the profligacy of idle and drunken soldiers lie at the bottom of this odious and disgraceful legislation. Stop the soldiers' drink, and you will stop nine-tenths both of their unchastity and of their other offences.

The medical faculty, not all (for there are glorious exceptions), yet only too many have been the upholders of artificial factitious remedies of ill-health, real or pretended. It is pleasant to be able to say that, however monstrous have been the cruelties of the faculty towards animals in some other countries, the horrors of vivisection here found their earliest and most active

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advocates, *not* among actual practitioners of medicine, *but* among theorists, "biologists," and professors. It would be better still if we could avoid adding, that, as months and years go on, medical students, with the approbation or connivance of professors, more and more display zeal on the side of animal torture. In slight illness we do not need any very refined medical science: in dangerous and severe cases medical treatment is not so splendidly successful (if we may believe the testimony of a whole chorus of eminent practitioners and professors) that it can vaunt very high of the advantages it has obtained from the prolonged agonies of dogs, cats, and rabbits. Whether by such horrible cruelties human physiology has obtained, as a theory, any important enlargement, physiologists and students of the history may discuss. But the vivisectors are obstinately silent on the question whence they get a right to torture a *dog* any more than to torture a *man*. Some of them are avowed Atheists; and of them it has been remarked that having cast off reverence for a superior, they with it have lost mercy for an inferior. But if any profess to obey a moral law, they have to explain how they justify *animal* torture without justifying *human* torture, especially when the latter would much better promote science. The ground of condemning the torture of men is not because the man is intelligent, because he is religious, because he has a soul, because he is immortal; but because he has a sensitive nervous system. If a dog, a horse, a rabbit—as most vertebrated animals—have a body equally susceptible of pain, the moral offence of torturing it merely to increase our knowledge is identical with that of torturing a man for the same purpose. As one class of doctors insolently tell ladies that they invade the rights of poor women in order to save innocent wives from pollution by profligate husbands, so do vivisectionists insolently declare that we, the public, desire to get the advantage of medical treatment, while we censure the only means of attaining it. In each case, ladies not a few reply that they would scorn to accept such an advantage, whatever its amount, if bought at such a price. The whole matter is, not barbarous, but ghastly; and we have a new portentous example of imbecile legislation. A law was made nominally to restrict this torture of animals, but practically it has for the first time legalised it. The torturers are triumphant. The names of those who have licences to torture are carefully concealed, so that no torturer can be prosecuted, for it is always uncertain whether he may not have

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a secret licence. When law is thus perverted how can reverence for it be sustained? Dr Charles Bell Taylor of Nottingham, in a meeting of a local society, after recounting a number of dreadful heartrending facts, remarks: "No man can do such things without suppressing his conscience, and the man who habitually suppresses his conscience is on the way to become a devil. . . . . Young men are necessarily demoralised and spoiled by such an education."

This brings us back to the original question—Who is a good citizen? in other words, What is it to be civilized? Let those believe, who can, that the habit of inflicting prolonged agony on innocent animals does not harden the heart, does not make a man a worse citizen. Yet no one, not even a drunkard, will deny that a sot is a bad citizen. A bad man, says Aristotle, is more dangerous than a wild beast; a man without a conscience is unfit for human society; and when drink disorders the brain, a man has no conscience, and differs little from a lunatic. Precisely because a beast cannot be a citizen of a human community, drunkenness, which makes a man more dangerous than a beast, suspends his rights as a citizen. The same infatuation which acquiesces in chronic pauperism, and does not know that it is a plague spot, complacently endures an army of drunkards counted by myriads, with orphanhood, disease, insanity, and pauperism marching in its wake. Nothing could be a milder punishment, if not rather called *remedy*, for drunkenness, than when once a person had been convicted of it, to forbid others in future to sell or give to him any intoxicating liquor. Our ancestors long ago saw that the trade in such drink must be kept under special restrictions. The kings, the parliaments, the ministries, the magistrates, have long since claimed, used, and acknowledged the right and duty of repressing a trade which thrives most when it does most vital mischief to the community. Therefore, for centuries back local magistrates received the power of severely cutting down the trade to its narrowest limits. When merchandise became more enterprising and capital increased, during the long reign of Elizabeth, this trade (here, as everywhere else) became dangerous and mischievous in proportion to its increased energy. Hence, under the two first Stuarts the ministers of the Crown were active and severe against it: the Parliament also was indignant at the ever-increasing vice. But against the attempted despotism of the first James and Charles, freedom and the Parliament triumphed. Under the second Charles,—a man not more drunken than his

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grandfather,—things turned for the worse, and the English nation became more and more despicably sottish, until the great religious revival under Wesley, Whitefield, and the Evangelicals made a change for the better. It is thought that we are not at present in quite so bad a state as in the reigns of the early Georges, down to the close of our American War. But how is it that the successive ministries, ever since Charles II., have shown none of the zeal against drunkenness which was so active before the Commonwealth? How is it that since Lord Grey's Reform Act a series of ministries, Whig and Tory, have been callous, cold, and practically unconcerned at the steady and formidable increase of an evil which a Parliamentary Committee of 1834 denounced in terms of burning indignation; and that, while unable to deny the enormous magnitude of the mischief,—while perfectly aware that the magistrates in nearly every great town scandalously neglected the duty of repressing the dangerous trade,—yet not on one occasion for two hundred years past has a Lord Chancellor been known to reprove a magistrate for this neglect of duty, much less to displace, or threaten to displace him? Why did the ministries under James I. and Charles I. show a spirit so different from that of later ministries? Is there possibly any connection between this notable fact and another notorious fact, namely, that under Charles II. the Parliament gave to the king's Exchequer a new revenue from the Excise, which became more and more profitable, as did the duties on wine which are called Customs? So great has this source of revenue become, that it now exceeds thirty-three millions sterling in the year. But we are suddenly checked: we are reproved. No one ought to impute motives! It is outrageous to suggest that ministries connive at drunkenness in order to get revenue! Well; no doubt, to impute bad motives *gratuitously* is very wrong; yet if we may not speculate on motives, there can be no moral criticism. We are told that we ought to be charitable; but blindness is not charity. The charity here entreated or required of us is unhappily superfluous; for the ministries, and Parliament too, knew officially, from about 1826 onward, that, by the unlawful connivance of our Indian authorities, opium was smuggled into China for the sake of revenue to the Company. The ministries also connived, and hereby implicated themselves in war with China. Three wars with that injured country they fought, caused mainly by this opium traffic, which by dint of war they have compelled the Emperor of China to legalize. When challenged in Parliament

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by Sir Wilfrid Lawson, the late ministry did not dare to defend the morality of the opium traffic: all they could say for it amounted to this, that they could not afford to lose the revenue from it! Moreover, spirit shops have been introduced into India, to the disgust of Moslems and Gentoos, for no possible reason but to swell the revenue. It is therefore not charity, but mere simplicity, to doubt that from desire of revenue the successive ministers for two centuries back have connived at the magistrates' neglect of duty. If a Lord Chancellor were now as energetic as a Lord Keeper under Charles I.,—if he were to threaten whole benches of magistrates with removal unless scandalous drunkenness vanished,—we should need no new legislation; the existing laws are quite severe enough, if only there were the heart to execute them. No barbarism in England has been longer assailed than this uncivilizing vice. None has been cherished more obstinately by those whose duty was to control it. Unless the English nation brace up serious determination to extirpate both this and our other deadly barbarisms, good intentions and pious wishes will be unavailing to avert the natural results of vice in the people and folly in the governors.

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COMPULSORY VACCINATION.

Written by request for a Public Meeting. 1884.

DEAR SIR,—You invite me to send forth from your platform my thoughts concerning our Compulsory Vaccination. I can only treat it from its moral, constitutional, and legislative side; and on all I deeply and unhesitatingly condemn it.

(1.) As the rightful power of every King, so the rightful power of every Legislature, has limits notorious to common sense. No one may forbid Perfect Health, any more than command Vicious acts. No one may command the infusion of Disease into a healthy body: even as a punishment, that is wrongful. Again: No legislator may delegate his legislative vote, and make himself a mere voting-tool obedient to a medical expert.

(2.) By recommending Re-Vaccination the Medical Faculty confess that Vaccination has not permanent virtue: yet they cannot tell us how long it lasts. Eminent men declare that it cannot be depended on *at all*, at the precise time *when* (if ever) *it is most needed;* that is, in a season of prevalent Small Pox. Nature tries *to throw off* the Vaccine ulcer, and the stronger the vitality, the quicker it is thrown off, and normal health is regained. What then says the wise Surgeon? *Re*-vaccinate him!! This virtually avows, that the patient is to be permanently kept in real unhealth, in order to avoid possible disease! And an eminent advocate of Vaccination plainly confesses *their aim* to be the *maintenance of an artificial state.*

(3.) Has not Parliament the wit to know, that the Medical Faculty thrives on public unhealth, and starves on public health; and therefore their advice ought rather to be listened to with cold suspicion than with modest deference.

(4.) Vaccinators keep the Small-Pox register; and their Tables prove that in years of worst Small-Pox there is somewhat less Total Mortality. By no argument but that of Figured Tables do they plead for Vaccination; and lo! their own figures prove that (if they can prove anything) Small-Pox is an effort of Nature that saves us *from something worse;* and that no Government ought to

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concern itself about this disease more than about every other. To obviate it by extirpating its causes, is good sense; to infuse a new disease without caring to extirpate the causes of the existing disease, is a want of common sense.

(5.) Nor only so; but to leave the causes of Small-Pox unchecked, and study to avert the coming out of the disease to the surface, is against all received principles. Nature tries to throw morbid matter out; Physicians dread this, while unable to deny that it lessens Total Mortality. A great Chemist has told Parliament that Vaccination *saves* 80,000 lives yearly. Indeed!!!

(6.) When first it was asserted that Syphilis might be propagated by Vaccination, the doctors vehemently denied the fact, and Medical Writers declared (as in the *Times*), that *if* such a thing could be proved, Vaccination could not stand. But when it no longer could be denied, the doctors were not at all ashamed of the insults they had poured on Anti-Vaccinators; but, as if to smother us by pompous words, have only become more insolent and more dogmatical.

(7.) Parliament has no right to infuse *anything* into the blood of *the healthy:* how much less to infuse *filth* of which no expert can know the ingredients? and pretend to do it for health, and give no guarantee than it is not deadly poison!

(8.) Parliament has not defined *what is* Vaccination. Experts quarrel about it. It is a mere *name*, yet is imposed by law!

(9.) The Doctors by their zeal for Re-Vaccination betray their distrust of Vaccination, while boldly praising its virtues to their dupes, and not their silliest dupes, the educated classes.—

Yours truly, F. W. NEWMAN.

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